

MENCHIE PUNZALAN-SANTOS, COMPLAINANT, VS. NAPOLEON I. ARQUIZA, DEPUTY SHERIFF, RTC, BR. 37, MANILA, RESPONDENT.*A.M. No. P-93-976. May 31, 1995*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ee367c7445f7/>**PER CURIAM:**

This administrative case stems from the report of the National Bureau of Investigation (NBI) on the complaint of Menchie Punzalan-Santos against Deputy Sheriff Napoleon I. Arquiza, RTC, Br. 37, Manila, for violation of R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The report shows that complainant obtained a favorable judgment from the RTC in Civil Case No. 92?61603, "Menchie Santos v. Victorino Santos," for support. On 26 August 1993 a writ of execution was issued in her favor. On 6 September 1993 respondent Deputy Sheriff, accompanied by complainant, served a Notice of Garnishment on the Manager/Cashier of Coca-Cola Philippines, Otis, Pandacan, where defendant, complainant's husband Victorino Santos, worked.

Complainant claims that after service of the Notice of Garnishment she gave respondent P200.00 for taxi fare in going back to the City Hall, Manila. Upon receipt, respondent allegedly got angry and exclaimed, "Anak ng! Hindi mo ba alam ang patakaran ng mga sheriff? Hindi ka ba sinabihan ng abogado mo? Hindi mo ba alam mayroon akong 5% to 20% sa makokolekta?" Complainant reminded respondent that they had not yet collected anything, but the latter continued, "Siyempre kahit papaano magbibigay ka ng cash advance! Hindi mo pa hinustong P500.00." Complainant replied that she had no money and showed respondent the sum of P50.00 left in her wallet. Respondent commented, "Akala ko, okey ka, ukinam ka pala." Complainant was hurt by respondent's retort. Nonetheless, she was forced to promise to give him P300.00 at his office the following day at one o'clock in the afternoon. Respondent finally acceded and said, "O sige, hustuhin mo na ito ng P1,000.00."

After considering respondent's plaint against the meager amount of P200.00, complainant decided to accompany him back to his office and to pay the taxi fare. While waiting for a cab, respondent said, "Mayroon nga akong kliyenteng isa pa at pinauwi ko na lang dahil binigyan kita ng priority, inuna kita, akala mo kung sino kang pumorma wala ka palang sinabi." Complainant apologized and inquired whether he was still angry and he answered, "Hindi naman naunsiyami lang."

Perturbed by the attitude displayed by respondent, and upon advice of a friend, complainant sought the assistance of the Office of the Court Administrator which forthwith referred her case to the NBI.

At the NBI, complainant filed a complaint against respondent sheriff for extortion. A plan to entrap respondent was prepared by the NBI agents by using one (1) P500-bill and three (3) P100-bills laced with fluorescent powder. On 7 September 1993, at about three o'clock in the afternoon, respondent was arrested just outside RTC, Br. 37, while in the act of counting the marked money handed to him by complainant. He was brought immediately to the NBI where he was booked, fingerprinted and photographed. On 8 September 1993 the NBI filed a case against him for violation of R.A. 3019 with the Office of the Ombudsman which subsequently charged respondent with direct bribery.[1]

In the resolution of 24 November 1993 we treated the aforesaid NBI report as an administrative complaint and required respondent to comment thereon.[2] On 10 January 1994 he filed his comment denying the extortion charge.

Respondent asserts that during all the time the writ of execution was being prepared and eventually served he advanced the payment for docket fees, notice of garnishment fees, xerox copies of documents, traveling and other incidental expenses. He claims that he reminded complainant about the legal expenses; that he explained to complainant about the corresponding sheriff's percentage of collection which would be automatically deducted from the amount that may be collected; that complainant got irritated and in order to calm her down, he jokingly uttered the Ilocano word "ukinam;" that such word was just a harmless figure of speech with no malice intended; and, that complainant already executed an affidavit of desistance exonerating him from the alleged extortion.

Respondent surmises that the entrapment by the NBI was the product of complainant's anger and frustration over her long separation from her husband which she could only unleash on respondent.

On 11 May 1994 we referred the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.[3]

In its Memorandum of 7 June 1994 the OCA submitted its report finding the complaint meritorious -

After a careful perusal of the records of the instant administrative case, we are inclined to agree that the complaint is impressed with merit.

The allegation of the Respondent Sheriff that the entrapment operation was a result of anger and frustration on the part of the complainant is too simplistic, not worthy of credence and difficult to believe.

Further, respondent Sheriff's allegations that he has advanced the expenses relative to the issuance of the writ has not been satisfactorily proven by a receipt of any kind.

Certainly respondent Sheriff has no right to demand the amount of P1,000.00 because the same does not find sanction under the Rules of Court. The pertinent provision of Rule 141 of the Rules of Court as amended[4] reads thus:

Sec. 1. Persons authorized to collect legal fees. - Except as otherwise provided in this rule the officers and persons hereinafter mentioned, together with their assistants and deputies, may demand, receive, and take the several fees hereinafter mentioned and allowed for any business by them respectively done by virtue of their several offices and no more.

Sec. 9. Sheriffs and other persons serving processes x x x (1) for money collected by him by order, execution, attachment, or any other process, judicial or extrajudicial, the following sums, to wit: 1. on the first four thousand (P4,000.00), 4%; 2. on all sums in excess of four thousand (P4,000.00), 2%.

In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental or final, shall pay the sheriff's expenses in serving or executing the process or safeguarding the property levied upon, attached or seized, including the kilometrage, for each kilometer of travel, guards fees, warehousing and similar charges in an amount estimated by the sheriff, SUBJECT TO THE APPROVAL OF THE COURT. Upon approval of said estimated expenses, the interested party shall deposit such amount with the Clerk of Court and Ex-Officio Sheriff who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process.

The conduct of respondent sheriff in this case certainly constitutes grave misconduct, dishonesty prejudicial to the best interest of the service and acts unbecoming of a court employee (Administrative Matter No. P-90-404, March 11, 1991, Tan vs. Herras, 195 SCRA).

The misconduct of the respondent Sheriff is grave in character because it is tainted by an element of corruption punishable under the Civil Service Rules, the pertinent provision of which reads thus: Sec. 49(b). The following shall be grounds for disciplinary action: (1) Dishonesty x x x x (4) Misconduct x x x x

As regards the affidavit of desistance allegedly executed by the complainant, the Court generally attaches no persuasive value to affidavits of desistance (Adm. Matter No. 1294- MJ, March 23, 1979, 89 SCRA 109). The Court cannot overstress the need for circumspect and proper behavior on the part of the sheriff, an officer of the Court upon whom the execution of a final judgment depends. It is said that execution is the fruit and the end of the suit and is very aptly called the life of the law (PAL vs. Court of Appeals, 181 SCRA 557).

The OCA concludes by recommending that respondent be dismissed from the service with forfeiture of all benefits to his credit and with prejudice to reemployment to any government service.[5]

The record fully sustains the findings of the OCA. Respondent's disavowal of the extortion charge is weak vis-a-vis his entrapment by the NBI. We find no valid and satisfactory reason for the sum of P1,000.00 he received from complainant. While he reasoned that the money was for the payment of the sum he advanced to defray the incidental expenses for the writ, such reason however only exacerbates his administrative culpability.

With his twenty-four (24) years in government service, respondent could have known that he deviated from the prescribed norm in demanding payment not only for incidental fees but also for the sheriff's percentage of the proceeds of execution. Yet, he neither offered a valid reason for the irregularity nor presented a court approval for such departure from the standard procedure. Unquestionably, his actuations showed bad faith. As correctly observed by the OCA, there was no receipt for his advance payment of the incidental fees; nor did he present a written accounting of the fees he allegedly paid in behalf of complainant. Indeed, such anomalous procedure raises a strong suspicion that respondent intended to overcharge complainant who was unaware of the prescribed legal fees.

Significantly, respondent himself unwittingly supported the extortion charge. In his comment, he admitted having informed complainant of the sheriff's percentage in the execution proceeds. The un rebutted 5% to 20% portion which respondent claimed to be due him was clearly exorbitant and unauthorized under Sec. 9, Rule 141, of the Rules of Court.

Indubitably, respondent is administratively liable for dishonesty, abuse of authority, and grave misconduct in the discharge of his official duty. By his act, he violated the yardstick of public service imposed in Sec. 1, Art. XI, of our Constitution which stresses that a public office is a public trust and public officers and employees must serve with the highest degree of responsibility, integrity, loyalty, and efficiency, and at all times remain accountable to the people.[6] In addition, he has displayed unprofessionalism in the discharge of his official duty contrary to the mandate of the Code of Conduct and Ethical Standards for Public Officials and Employees, i.e., to perform and discharge their duty with the highest degree of excellence, professionalism, intelligence and skill, endeavoring to discourage wrong perceptions of their role as dispensers of justice.[7]

Further, we deplore respondent's vulgar and offensive remark against complainant. His use of the Ilocano pejorative "ukinam" is uncalled for. His effort to persuade us that his use of the disparaging term was merely a joke to calm down an irritated complainant must fail.

Complainant and respondent were strangers to each other. The only factor that brought them together was the execution of a judgment in favor of complainant. Consequently, such uncouth and insulting expression, far from diffusing a tense situation, would only trigger outbursts of temper. In the light of the attendant circumstances, we believe that the Ilocano word "ukinam" was an emphatic declaration of respondent's strong displeasure over

complainant's failure to pay him a bigger amount. Respondent's rude behavior cannot be condoned. The courts are established to serve the public, particularly the litigants.[8] Hence, all court employees are required to exhibit civility and courtesy in dealing with the public. More importantly, the Code directs all public officials to extend prompt, courteous and adequate service to the public, and at all times to respect the rights of others and refrain from doing acts contrary to law, good morals, good customs, public order, public policy, public safety and public interest.[9]

Given the clear case of grave misconduct, dishonesty and abuse of authority of respondent, we are hardly moved by the reported affidavit of desistance of complainant. The records alone provide a sufficient basis for the determination of respondent's administrative liability.[10] For such grave offenses prejudicial to the best interest of the service, the OCA recommends that the penalty of dismissal be imposed upon respondent sheriff.

We fully agree. At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants, hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.[11] Respondent's behavior erodes the faith and confidence of our people in the administration of justice. He no longer deserves to stay in the service any longer.

WHEREFORE, as recommended, respondent Napoleon I. Arquiza, Deputy, Sheriff, RTC, Br. 37, Manila, is **DISMISSED** from the service, with forfeiture of all retirement benefits, with prejudice to reinstatement or re-employment in any branch or instrumentality of the government including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.
Quiason, J., on leave.

[1] Rollo, pp. 9-23.

[2] Id., p. 27.

[3] Id., p. 34.

[4] The above-quoted sections of Rule 141, as amended, in the report are not accurate. The correct provisions of Sec. 1 (now Sec. 3) and Sec. 9, par. (1), are as follows -

Sec. 3. Person authorized to collect legal fees. - Except as otherwise provided in this rule, the officers and persons hereinafter mentioned, together with their assistants and deputies, may demand, receive, and take several fees hereinafter mentioned and allowed for any business by them respectively done by virtue of their several offices, and no more. All fees so collected shall be forthwith remitted to the Supreme Court. The fees Collected shall accrue to the general fund. However, all increases in the legal fees prescribed in the amendments to this rule shall pertain to the Judiciary Development Fund as established by law. The persons herein authorized to collect legal fees shall be accountable officers and shall be required to post bond in such amount as prescribed by law.

Sec. 9. Sheriffs, and other persons serving processes. -x x x- (1) For money collected by him by order, execution, attachment, or any other process, judicial or extra-judicial, the following sums, to wit:

1. On the first four thousand (P4,000) pesos, four (4%) per centum
2. On all sums in excess of four thousand (P4,000) pesos (2%) per centum.

In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses in serving or executing the process or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, in an amount estimated by the sheriff subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

[5] *Id.*, pp. 36-38.

[6] *Villaraza v. Atienza*, Adm. Matter No. P-2403, 30 October 1981, 108 SCRA 559, 566.

[7] An Act Establishing a Code of Conduct and Ethical Standards For Public Officials And Employees, To Uphold The Time-Honored Principle Of Public Office Being A Public Trust, Granting Incentives and Rewards For Exemplary Service, Enumerating Prohibited Acts and Transactions And Providing Penalties For Violation Thereof And For Other Purposes.

[8] *Hermoso v. Mendoza*, Adm. Matter No. P-2432, 20 February 1982, 112 SCRA 54, 57.

[9] Sec. 4, pars. (c) and (e), RA 6713.

[10] See *San Pedro v. Resurreccion*, Adm. Matter No. P-888, 16 April 1982, 113 SCRA 543, 545.

[11] See *Recto v. Racelis*, Adm. Matter No. P-182, 30 April 1976, 70 SCRA 438.

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