

**JOHNNY GOMEZ AND MAR GUIDOTE FOR SABINO S. RAMOS,
COMPLAINANTS, VS. RODOLFO A. CONCEPCION, DEPUTY SHERIFF,
REGIONAL TRIAL COURT, BRANCH 28, CABANATUAN CITY,
RESPONDENT.**

A.M. No. P-98-1283 (Formerly OCA IPI No. 96-140-P). May 09, 2000

Ponente: VITUG, J.

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VITUG, J.:

This administrative case originated from a letter, dated 10 April 1996, sent by Johnny Gomez and Mar Guidote, both of Radio Veritas, relative to the complaint of Sabino S. Ramos against Rodolfo A. Concepcion, Deputy Sheriff of the Regional Trial Court, Branch 28, of Cabanatuan City. Suprema

It would appear that on 10 March 1996, Sabino Ramos, while driving his owner-type jeep, figured in a vehicular accident. The vehicle was bumped by a passenger jeepney, with Plate No. DLZ-588, causing damage to the jeep of Ramos and injuries to the passengers. The offending vehicle, the passenger jeepney, turned out to be under the custody of respondent Sheriff. When required to comment on the complaint, he averred that the passenger jeepney was carnapped in front of his residence on 10 March 1996, between 12:00 p.m. to 1:00 p.m., which incident he immediately reported to the Philippine National Police of Cabanatuan City. Juris

On 21 April 1997, the Court resolved, among other things, to dispense with the filing of a reply by complainant to the comment; instead, it referred the case on 30 July 1997 to Executive Judge Federico B. Fajardo, Jr., of the Regional Trial Court of Cabanatuan City for investigation, report and recommendation.

In his report, dated 30 April 1998, the Investigating Judge informed the Court that complainant Ramos had repeatedly failed to appear in his sala despite having been notified of the scheduled hearings. At one time, a relative of complainant appeared before Judge Fajardo to inform the latter that the complainant was indisposed, his feet being in cast which prevented him from travelling all the way to Cabanatuan City. Complainant was directed to submit a medical certificate but he failed to comply. The Investigating Judge recommended the dismissal of the complaint, additionally noting that the sworn statements of Sabino Ramos and Edna Ramos had failed to mention any possible personal gain on the part of respondent Sheriff in the use of the passenger jeepney.

In its resolution, dated 20 July 1998, the Court referred the report of the investigating Judge to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. The case was docketed as a regular administrative matter in another resolution of 02 December 1998, and the parties were required to manifest whether they would submit the case for resolution on the basis of the records before the Court. For failure of the parties to comply therewith, the Court, in its 24 November 1999 resolution, resolved to dispense with the required manifestation.

In the memorandum submitted by OCA, through DCA Bernardo T. Ponferrada, in compliance with the Court's resolution of 20 July 1998, the OCA recommended that respondent Sheriff be meted the penalty of two (2)

months suspension without pay, the period of which should not be chargeable against his accumulated leave, with a warning that a repetition of the same or any other act calling for disciplinary action will be dealt with severely. The OCA observed:

"While we conform with the opinion of the investigating judge that there is no evidence to substantiate the allegation that respondent sheriff leased the passenger jeepney in question (Plate No. DLZ-588) to a third party for personal gain and that complainant Sabino Ramos clearly manifested his lack of interest to prosecute this case, we beg to disagree with the recommendation to dismiss the case on these grounds alone.

"It is an undisputed fact that the aforesaid vehicle was under the custody of the law as shown by the respondent's report to the PNP of Cabanatuan City, when he stated that, 'between the hour of 12:00 high noon and 1:00 P.M., 10 March 1996, the Passenger Type Jeep with Plate No. DLZ-588, which was placed under his custody and parked in front his residence at Sapiandante this City, was lost.

"The undersigned cannot find a valid explanation why the passenger jeepney under custodia legis should be placed in front of respondent's residence without taking into account the problem of safety and security. He unduly exposed the jeep to undesirable elements, making it an 'easy prey' for thieves and carnappers.

"Section 4, Rule 60 of the Rules of Court provides: 'xxx When the officer has taken property as herein provided, he must keep it in a secure place and shall be responsible for it and ultimately deliver it to the party entitled thereto upon receiving his fees and necessary expenses for taking and keeping the same.'

"Evidently, the respondent was remiss in the performance of his official duty and responsibility to safely secure the property in his custody until its delivery to the party entitled to it, as mandated by the rules. The vehicle could have been deposited in the premises of the court where it is secured, or, at any other place where the required security is provided for and available. For after all, the respondent should have known that his office could have charged the party entitled to it, allowable fees for storage, necessary in safely keeping the property in custodia legis.

"But, for reasons only known to the respondent, he breached his official duty and responsibility making him answerable for the consequences of his lapses.

"The conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff, should be circumscribed with the heavy burden of responsibility. This is especially true of sheriffs (*Cunanan vs. Tuazon*, A.M. No. P-93-776, Oct. 7, 1994). As a sheriff, the respondent is bound to discharge his duties with prudence, caution and attention which careful men usually exercise in the management of their affairs (*Evangelista vs. Penserga*, 242 SCRA 702)."[1]

The Court agrees with the above findings and recommendations of the OCA.

In *Gacho vs. Fuentes, Jr.*,[2] the Court has said, now here reiterated, that proceedings in administrative cases against public officers and employees should not be made to depend on the whims and caprices of complainants who, verily, are to be deemed mere witnesses therein. Once the Court has taken cognizance of an administrative case, a complaint can not be withdrawn on just the "say-so" of the complainant. The apparent lack of interest of herein complainant to pursue the matter will not be enough to warrant the dismissal of the case since the records on hand could amply show the culpability of respondent for which he should be held administratively liable. Sheriffs play an important role in the administration of justice, and being agents of the law and the courts, high standards are expected of them.[3] Respondent Sheriff did not proffer any explanation for parking the vehicle in his custody in front of his residence instead of having it stored in a secure place.[4] Respondent Sheriff has clearly been remiss in the performance of his assigned task.

WHEREFORE, respondent Rodolfo A. Concepcion is found guilty of dereliction of duty and is hereby

SUSPENDED for two (2) months, without pay, with a warning that the commission of similar acts in the future shall be dealt with most severely by this Court.

SO ORDERED.

Melo, (Chairman), Panganiban, and Gonzaga-Reyes, JJ., concur.

Purísima, J., abroad, no part.

[1] Rollo, pp. 45-46.

[2] 291 SCRA 474.

[3] Llamado vs. Ravelo, 280 SCRA 597.

[4] See NBI vs. Tuliao, 270 SCRA 351.

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