



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**OFFICE OF THE COURT
ADMINISTRATOR,**
Complainant,

A.M. No. P-13-3105
(Formerly A.M. No. 10-7-83-MTCC)

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

- versus -

DESIDERIO W. MACUSI, JR.,
Sheriff IV, Regional Trial Court,
Branch 25, Tabuk City, Kalinga,
Respondent.

Promulgated:

SEP 11 2013

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DECISION

LEONARDO-DE CASTRO, J.:

Criselda M. Paligan (Paligan) was the plaintiff in Civil Case No. 429-06, entitled *Ms. Criselda M. Paligan v. Spouses Cornelio and Leonila Tabanganay*, an action for collection of sum of money with damages, before the Municipal Trial Court in Cities (MTCC) of Tabuk City, Kalinga. In a letter dated July 23, 2009,¹ addressed to the Presiding Judge, MTCC,² Tabuk City, Kalinga, Paligan inquired as to the status of the writ of execution issued on September 10, 2008 by the MTCC in Civil Case No. 429-06, since she had not received any report or information whether the said writ had already been served. Paligan also furnished the Sheriff of the Regional Trial Court (RTC), Branch 25, of Tabuk City, Kalinga, a copy of her letter.

Judge Victor A. Dalanao (Dalanao), MTCC, Tabuk City, Kalinga, through a 1st Indorsement dated July 29, 2009,³ referred Paligan's letter to

¹ Rollo, p. 50.

² Paligan's letter was actually erroneously addressed to the Municipal Trial Court (MTC).

³ Rollo, p. 46.

the Office of the Court Administrator (OCA) for appropriate action. Judge Dalanao reported that the writ of execution, issued in Civil Case No. 429-06 on September 10, 2008, was received by the Office of the Provincial Sheriff on September 19, 2008. A return was made on October 30, 2008 informing the court that the writ was returned “unserved.” Thereafter, no other report on the writ was made. Judge Dalanao further observed that “a lot of cases are similarly situated, where not even a report [has been] submitted as prescribed by the Rules of Court.”

In a 2nd Indorsement dated August 17, 2009,⁴ the OCA referred Judge Dalanao’s 1st Indorsement dated July 29, 2009 and Paligan’s letter dated July 23, 2009 to Atty. Mary Jane A. Andomang (Andomang), Clerk of Court, RTC, Tabuk City, Kalinga, for comment and appropriate action.

Complying with the 2nd Indorsement, Atty. Andomang sent a Comment and Report on Civil Case No. 429-06 of [MTCC]-Tabuk City, dated September 30, 2009 to the OCA. In her Comment and Report, Atty. Andomang recounted that she already required the Deputy Sheriff⁵ to explain why no report was made on the writ in Civil Case No. 429-06 since October 2008. The Deputy Sheriff explained to her in a letter dated September 14, 2009 that no report was made because Paligan never appeared at the Office to coordinate the implementation of the said writ. Atty. Andomang claimed that she had always reminded the Deputy Sheriff of his duties and responsibilities in serving writs and making periodic reports.

Instead of filing a reply to Atty. Andomang’s Comment and Report as directed by the OCA, Judge Dalanao submitted a letter dated November 6, 2009 with an inventory of cases⁶ “if only to show the acts of the Sheriff.” Judge Dalanao pointed out that the Sheriff⁷ was inconsistent: making reports in some cases, although some of said reports were late, and making no reports at all in other cases. Judge Dalanao further noted that five years has already lapsed without execution in several cases. He has also yet to receive the Sheriff’s estimate of expenses for approval. Judge Dalanao lastly averred that after receiving complaints from parties, he already verbally brought up the matter with the Executive Judge, and even personally talked to the Sheriff several times to remind the Sheriff of his duties and responsibilities.

In his letter dated November 16, 2009,⁸ Desiderio W. Macusi, Jr. (Macusi), Sheriff IV, RTC-Branch 25, Tabuk City, Kalinga, defended himself by calling attention to the fact that he was appointed as Sheriff only in 2006, while some of the writs of execution in Judge Dalanao’s inventory of cases were issued as early as 1997. While admitting that in some cases,

⁴ Id. at 48.

⁵ Atty. Andomang did not name the Deputy Sheriff she was referring to but who turned out to be Desiderio W. Macusi, Jr., Sheriff IV, RTC-Branch 25, Tabuk, Kalinga.

⁶ *Rollo*, pp. 17-30.

⁷ Again, Judge Dalanao did not specifically name Macusi in his letter dated November 6, 2009.

⁸ *Rollo*, pp. 36-38.

there were late reports or no reports at all on the writs of execution, Macusi argued that “(t)he rule states that the Sheriff must act with celerity and promptness when they are handed the Writs of Execution; yet, the rule also states that when party litigants, in whose favor the Writs, have been issued, frustrate the efforts of the Sheriffs to implement those Writs, the latter are relieved from such duty and incur no administrative liability therefor.”⁹ Macusi additionally wrote that he did not report regularly despite the presence of the rules since he “relied on the dictates of practicality so as not to waste supplies. Rules, accordingly are there to guide but they are not absolute[,] what matters is what one accomplishes.”¹⁰ Macusi then informed the OCA that he had been, in fact, sued before the courts because of his accomplishments as a Sheriff. As for his failure to submit his estimate of expenses for Judge Dalanao’s approval, Macusi explicated that he dispensed with the same for the winning parties were already willing to assist him and pay for his expenses.

The OCA, finding that Macusi violated Rule 39, Section 14 and Rule 141, Section 9 of the Rules of Court, sent the latter a letter dated December 2, 2009¹¹ directing him to show cause why no disciplinary action should be taken against him.

In his letter-compliance dated January 4, 2010,¹² Macusi provided the following explanation:

1. That I was appointed Court Interpreter on May 24, 2004 and was designated Sheriff in April 2005;
2. That the Writs of Execution issued in the year 1997-2004 were not properly turned over to the undersigned; hence, I could not make any follow-ups and updated reports;
3. That the Writs of Execution without initial or updated reports could not be blamed on the undersigned because as early as August 2006 [please see attached reports marked as annex A], I already informed the Honorable Court of the stand of the plaintiff, Rural Bank of Tabuk [K-A], Inc. regarding the Writs of Execution issued in its favor – **THAT THE WRITS OF EXECUTION WILL ONLY BE DELIVERED AND EXPLAINED TO THE LOSING PARTY LITIGANTS** – thus; what report could be made in such a scenario. **Please see also attached reports marked as Annex A-1 on the stand of the plaintiff of scheduling the service of the Writs of Execution**, this was reported to the Hon. Court in August 2008. Kindly compare this with the report where plaintiffs through their counsels who always coordinate with the Office of the Clerk of Court of RTC BR 25 where I am serving as the Sheriff **resulted to either partial or full satisfaction of the amount of execution [said report is marked as Annex A-2];**

⁹ Id. at 36-37.

¹⁰ Id. at 37.

¹¹ Id. at 31-32.

¹² Id. at 6-8.

4. That Plaintiff Rural Bank of Tabuk [K-A] Inc. **does not like to make the necessary deposit for the Sheriff's expenses in IMPLEMENTING OR EXECUTING the Writs of Execution because the company [Rural Bank] had been and is spending thousands of pesos for litigation expenses [please see attached report marked as Annex B].** Thus; no estimated expenses could be shown, **though I AM ACCOMPLISHING THE FORM FOR ESTIMATED EXPENSES WHENEVER I SERVED COURT PROCESSES** and said form is attached and marked as Annex C;
5. That I am attaching **OCA Circular No. [44-2007] marked as Annex D to show why Cooperatives does (sic) not need to make the necessary deposits for Sheriff's expenses; hence, no estimated expenses to be accomplished and shown;**
6. That I have done everything I could to comply with the Rules of Court on Execution and satisfaction of Judgment; hence, I should not be liable for a disciplinary action because **"...the rule also states that when party litigants, in whose favor the Writs, have been issued, frustrate the efforts of the Sheriffs to implement those Writs, the latter are relieved from such duty and incur no administrative liability therefore."**

In a Resolution dated August 18, 2010,¹³ the Court treated the instant matter as an administrative complaint against Macusi and referred the same to Executive Judge Marcelino K. Wacas (Wacas), RTC-Branch 25, Tabuk City, Kalinga, for investigation, report, and recommendation. The Court also directed Atty. Andomang to facilitate, in coordination with all concerned, the immediate implementation of the writs of execution listed in Judge Dalanao's inventory and submit a status report thereon within 30 days from notice.

After his investigation, Judge Wacas submitted a Resolution dated April 20, 2012.¹⁴ Judge Wacas found substantial evidence that Macusi violated Rule 39, Section 14 and Rule 141, Section 10 of the Rules of Court. According to Judge Wacas, Macusi exercised "some degree of discretion," having his own rules and unmindful of the existing rules and established jurisprudence. Judge Wacas took into account the following:

[T]he attention of this Court was partly focused on the length of service of Mr. Macusi as Deputy Sheriff and that is for the period of more than 3 years and by reason of the same, this Court could say that he wrongly interpreted some basic rules in the implementation of writs of execution and the disbursement of expenses relative thereto. Another point to consider, is the principle of first offense which has the effect of mitigating the administrative liability.¹⁵

¹³ Id. at 51-52.

¹⁴ Id. at 64-73.

¹⁵ Id. at 72.

In the end, Judge Wacas recommended that Macusi be found guilty of simple neglect of duty and meted the penalty of a fine in the amount of Four Thousand Pesos (₱4,000.00).

The OCA, in its Memorandum dated October 17, 2012,¹⁶ agreed with the conclusions of fact of Judge Wacas and recommended that:

1. [T]he instant administrative complaint be **RE-DOCKETED** as a regular administrative case;
2. Desiderio W. Macusi, Jr., Sheriff IV, Branch 25, RTC, Tabuk, Kalinga, be found **GUILTY** of Simple Neglect of Duty and a penalty of **FINE** in the amount of Four Thousand Pesos (₱4,000.00) be imposed upon him, with a **STERN WARNING** that a repetition of the same or similar offense will be dealt with more severely.¹⁷

In a Resolution dated February 6, 2013,¹⁸ the Court re-docketed the administrative complaint against Macusi as a regular administrative matter and required Macusi to manifest within 10 days from notice if he was willing to submit the matter for decision/resolution based on the records/pleadings filed.

Macusi¹⁹ submitted his Manifestation and Motion dated May 30, 2013, informing the Court that he was deemed resigned from government service by operation of law when he filed his Certificate of Candidacy for the position of City Councilor in Tabuk City, Kalinga for the 2010 Local Elections. He prayed that the Court dismiss the administrative case against him for being moot and academic.

As found by Judge Wacas and the OCA, Macusi violated Rule 39, Section 14 and Rule 141, Section 10 of the Rules of Court, which provide:

RULE 39
EXECUTION, SATISFACTION AND
EFFECT OF JUDGMENTS

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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 (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires.** The returns or the periodic reports shall set forth the

¹⁶ Id. at 76-79.

¹⁷ Id. at 79.

¹⁸ Id. at 80.

¹⁹ Id. at 82-84.

whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties. (Emphasis ours.)

RULE 141
LEGAL FEES

X X X X

Section 10. *Sheriffs, PROCESS SERVERS and other persons serving processes.* –

X X X X

With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses 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 liquidation shall be approved by the court. 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.

The *raison d'être* behind the requirement of periodic reports under Rule 39, Section 14 of the Rules of Court is to update the court on the status of the execution and to take necessary steps to ensure the speedy execution of decisions.²⁰ Macusi did not deny that he failed to file periodic reports on the Writ of Execution dated September 10, 2008 in Civil Case No. 429-06, as well as on the writs of execution in the other cases in Judge Dalanao's inventory. In his defense, however, he asserted that the prevailing party in the cases, including Paligan, failed to coordinate or refused to cooperate with him in the implementation of their respective writs of execution; and that the writs of execution were not properly turned over to him when he was appointed Sheriff in April 2005. Macusi's excuses cannot exonerate him.

In *Mariñas v. Florendo*,²¹ the Court stressed that:

Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them. They are duty-bound to know and to comply with the very basic rules relative to the implementation of writs of execution.

It is undisputed that the most difficult phase of any proceeding is the execution of judgment. The officer charged with this delicate task is

²⁰ *Mangubat v. Camino*, 518 Phil. 333, 342 (2006).

²¹ A.M. No. P-07-2304, February 12, 2009, 578 SCRA 502, 510-511.

the sheriff. The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law. He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom. (Citations omitted.)

As observed by Judge Wacas, Macusi exercised excessive discretion in the execution of the writs and in the filing of reports thereon. He seemed to have entirely overlooked that the nature of a sheriff's duty in the execution of a writ issued by a court is purely ministerial. As such, a sheriff has the duty to perform faithfully and accurately what is incumbent upon him. Conversely, he exercises no discretion as to the manner of executing a final judgment. Any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.²²

Moreover, difficulties or obstacles in the satisfaction of a final judgment and execution of a writ do not excuse Macusi's total inaction. Neither the Rules nor jurisprudence recognizes any exception from the periodic filing of reports by sheriffs. If only Macusi submitted such periodic reports, he could have brought his predicament to the attention of his superiors and the issuing courts and he could have given his superiors and the issuing courts the opportunity to act and/or move to address the same.²³

A sheriff is guilty of violating Rule 141, Section 10 of the Rules of Court if he fails to observe the following: (1) prepare an estimate of expenses to be incurred in executing the writ; (2) ask for the court's approval of his estimates; (3) render an accounting; and (4) issue an official receipt for the total amount he received from the judgment debtor.²⁴

There is no showing herein that Macusi complied with the foregoing procedure. Macusi even actually admitted that he did not submit an estimate of expenses because the winning parties in some of the cases willingly spent for the execution of their writs. Macusi's explanation only makes matters worse for him as sheriffs are not allowed to receive any voluntary payments from parties in the course of the performance of their duties. Corollary, a sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps. Even assuming such payments were indeed given and received in good faith, this fact alone would not dispel the suspicion that such payments were made for less than noble purposes. Neither will the parties' acquiescence or consent to such expenses absolve the sheriff for his failure to secure the prior approval of the court concerning such expense.²⁵

²² *Spouses Biglete v. Maputi, Jr.*, 427 Phil. 221, 227 (2002).

²³ *Astorga and Repol Law Offices v. Roxas*, A.M. No. P-12-3029, August 15, 2012, 678 SCRA 374, 383.

²⁴ *Gonzalez v. Calo*, A.M. No. P-12-3028, April 11, 2012, 669 SCRA 109, 120.

²⁵ *Id.* 120-121.

Sheriffs and their deputies are the front-line representatives of the justice system, and if, through their lack of care and diligence in the implementation of judicial writs, they lose the trust reposed on them, they inevitably diminish the faith of the people in the Judiciary. It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee. As such, the Court will not tolerate or condone any conduct of judicial agents or employees which would tend to or actually diminish the faith of the people in the Judiciary.²⁶

Macusi's prayer for dismissal of the present case for being moot is baseless. Macusi's constructive resignation from service through filing of his Certificate of Candidacy for the 2010 Local Elections does not render the case against him moot. Resignation is not a way out to evade administrative liability when a court employee is facing administrative sanction.²⁷ As the Court held in *Baquerfo v. Sanchez*²⁸:

Cessation from office of respondent by resignation or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor does it render said administrative case moot and academic. The jurisdiction that was this Court's at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. Respondent's resignation does not preclude the finding of any administrative liability to which he shall still be answerable. (Citations omitted.)

Considering the grave responsibilities imposed on him, Macusi had been careless and imprudent in discharging his duties. Neither neglect nor delay should be allowed to stall the expeditious disposition of cases. As such, he is indeed guilty of simple neglect of duty, which is the failure of an employee to give proper attention to a required task. Simple neglect of duty signifies "disregard of a duty resulting from carelessness or indifference."²⁹

Under Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations, (simple) neglect of duty is punishable by suspension of one month and one day to six months for the first offense. However, under Sec. 19, Rule XIV of the same Rules, the penalty of fine (instead of suspension) may also be imposed in the alternative.³⁰ Following the Court's ruling in several cases involving (simple) neglect of duty, this Court finds the penalty of a fine in the amount of ₱4,000.00, as recommended by Judge Wacas and the OCA, just and reasonable.

²⁶ *Lambayong Teachers and Employees Cooperative v. Diaz*, A.M. No. P-06-2246, July 11, 2012, 676 SCRA 74, 80-81.

²⁷ *Clerk of Court Marbas-Vizcarra v. Florendo*, 369 Phil. 840, 849 (1999); *Judge Cajot v. Cledera*, 349 Phil. 907, 912 (1998).

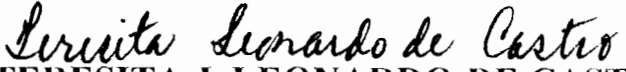
²⁸ 495 Phil. 10, 16-17 (2005).

²⁹ *Collado-Lacorte v. Rabena*, A.M. No. P-09-2665, August 4, 2009, 595 SCRA 15, 21-22.

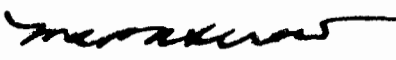
³⁰ *Id.*

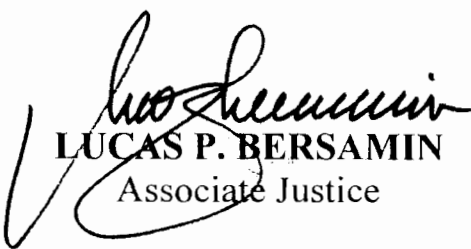
WHEREFORE, the Court finds Desiderio W. Macusi, Jr., former Sheriff IV, Regional Trial Court, Branch 25, Tabuk City, Kalinga, **GUILTY** of Simple Neglect of Duty and imposes upon him the penalty of a **FINE** in the amount of **₱4,000.00**. Considering Macusi's resignation, the Court directs the Office of Administrative Services to compute Macusi's terminal leave credits and the Fiscal Management Office to compute the monetary equivalent thereof, from which his fine of **₱4,000.00** shall be deducted.


SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice