



Republic of the Philippines
Supreme Court
Manila

EN BANC

ASTORGA AND REPOL LAW A.M. No. P-09-2668
OFFICES, REPRESENTED BY ATTY. [FORMERLY OCA IPI NO.
ARNOLD B. LUGARES, 08-3031-P]
Complainant,

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
BRION,**
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,***
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA,**** JJ.

-versus-

ALEXANDER D. VILLANUEVA,
SHERIFF IV, REGIONAL TRIAL
COURT, BRANCH 60, MAKATI
CITY,

Respondent.

Promulgated:

February 24, 2015

X-----X

RESOLUTION

PER CURIAM:

This administrative Complaint¹ was filed by Astorga and Repol Law

* No part.

** On leave.

*** No part.

**** On official leave.

¹ Rollo, pp. 1-4.

Offices against Alexander D. Villanueva, Sheriff IV of Branch 60 of the Regional Trial Court, Makati City. Complainant Astorga and Repol Law Offices is a professional law practice partnership, represented by Atty. Arnold B. Lugares.²

Astorga and Repol Law Offices charged Alexander D. Villanueva (Sheriff Villanueva) with “willful neglect of duty [and] serious misconduct [in office] due to graft and corruption [or] extortion with a prayer that a penalty of dismissal . . . [or] other appropriate sanctions be meted against him.”³

Astorga and Repol Law Offices represented FGU Insurance Corporation in a Complaint for damages filed against NEC Cargo Services, Inc.⁴ The Complaint was filed before the Regional Trial Court of Makati City and raffled to Branch 66 presided by Judge Ricardo R. Rosario.⁵ On August 23, 2004, Judge Ricardo R. Rosario issued a Decision in favor of FGU Insurance Corporation.⁶ The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant NEC Cargo Services, Inc., ordering the latter to pay the plaintiff [FGU Insurance Corporation] the following:

1. the amount of P1,942,285.19 with legal interest thereon from June 21, 2001 until the whole amount is fully paid;
2. attorney’s fees amounting to P70,000.00; and
3. costs of suit.⁷

NEC Cargo Services, Inc. and Albert Tamayo, a third-party defendant-appellant, appealed the Decision before the Court of Appeals. The Court of Appeals denied the Appeal in its Resolutions dated July 20, 2005 and December 20, 2005. These Resolutions became final and executory.⁸

The Writ of Execution dated July 10, 2006 was issued by Atty. Marjorie M. de Castro, Branch Clerk of Court of Branch 66 of the Regional Trial Court of Makati City. On September 19, 2008, Presiding Judge Joselito C. Villarosa (Judge Villarosa) issued the Order granting Astorga and Repol Law Offices’ Motion to Appoint Special Sheriff. Sheriff Villanueva was assigned to execute the Decision.⁹

² Id. at 1.

³ Id. at 4.

⁴ Id. at 1 and 243. The Complaint for damages was docketed as Civil Case No. 01-1002.

⁵ Id.

⁶ Id. at 243.

⁷ Id.

⁸ Id. at 243–244.

⁹ Id. at 244.

On October 29, 2008, Sheriff Villanueva and Atty. Arnold B. Lugares (Atty. Lugares) started coordinating with each other for the execution of the Decision.¹⁰ They agreed to meet on November 24, 2008 allegedly “to discuss the service of the Notice[s] of Garnishment.”¹¹

On November 24, 2008 at 8:54 a.m.,¹² Sheriff Villanueva allegedly sent a text message to Atty. Lugares. The message said, “*Nagcoffee break lang sir, antay nio lng muna ako dyan sir, gd. day.*”¹³

At around 10:00 a.m., Atty. Lugares met with Sheriff Villanueva on the 10th floor of the Makati City Hall.¹⁴

During the meeting, Sheriff Villanueva allegedly demanded ₱8,000.00 to execute the Decision.¹⁵ He allegedly stated: “[S]ayang lang ang pagod ko dito, kung wala naman tayong makokolekta”¹⁶ and “*E wala pang 50% ang magagarnish natin diyan eh.*”¹⁷ Atty. Lugares informed Sheriff Villanueva that this was part of his job, and he should not demand money from him. Sheriff Villanueva allegedly lowered the price to ₱5,000.00. They agreed to meet on Wednesday, November 26, 2008 at 8:00 a.m., to serve the Notices of Garnishment.¹⁸

On November 25, 2008, Sheriff Villanueva sent a text message at 4:27 p.m. to Atty. Lugares. The text message was the following: “*Cge po sir magCALL na kau ngayon.*”¹⁹ Atty. Lugares called Sheriff Villanueva on his cellular phone to confirm their appointment.²⁰ In the morning of November 26, 2008, Atty. Lugares sent a text message to Sheriff Villanueva to remind him of their appointment.²¹ At 7:23 a.m., he replied, “*Dala mo ba mga colors?*”²² Atty. Lugares asked Sheriff Villanueva what he meant by “colors.”²³ At 7:29 a.m., he replied, “*Hauz pa po, nagcoffee breakfast lng, un legal fees kako kung dala mo?*”²⁴ Atty. Lugares told Sheriff Villanueva to proceed with the meeting.²⁵ At 7:44 a.m., he replied, “*Bka puede bukas nlng sir, nag insist ang mga tga ChinaTrust mamya.*”²⁶

¹⁰ Id. at 528.

¹¹ Id.

¹² Id. at 295.

¹³ Id. at 528.

¹⁴ Id. at 2.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 298.

²⁰ Id. at 2.

²¹ Id.

²² Id. at 301.

²³ Id. at 2.

²⁴ Id. at 302.

²⁵ Id. at 2.

²⁶ Id. at 303.

Atty. Lugares insisted that they proceed with the garnishment since it was Sheriff Villanueva who set the appointment.²⁷ At 8:45 a.m., Sheriff Villanueva replied: “*Patawagin mo nga c atty. astorga dto sa mobil phone ko para magconfirm tau sa legal fees.*”²⁸

At 8:51 a.m., Sheriff Villanueva allegedly sent this text message to Atty. Lugares: “*Padala mo nlng khit lunch time un legal fees, khit kmi na bhala magpaserve nina shf. Flora.*”²⁹ Atty. Lugares then assumed that since Sheriff Villanueva was not given the amount of ₱5,000.00 he demanded, the issuance of the Notices of Garnishment did not take place.³⁰

In his Comment,³¹ Sheriff Villanueva countered that the Complaint “stemmed from a Writ of Execution dated July 10, 2006 . . . originally assigned to Sheriff Leodel N. Roxas[.]”³² This Writ of Execution was served on NEC Cargo Services, Inc., and personal properties or office equipment found inside NEC Cargo Services, Inc.’s office were levied.³³ However, prior to the scheduled auction sale on July 19, 2006, Mr. Narciso E. Calaton filed an Affidavit of Third-Party Claim.³⁴ FGU Insurance Corporation “failed to post [the] indemnity bond in favor of the third-party claimant.”³⁵ Thus, the Writ of Execution was returned unsatisfied.³⁶

On October 21, 2008, Sheriff Villanueva was ordered to implement the Writ of Execution.³⁷ The Sheriff’s Return³⁸ dated November 5, 2008 was returned unsatisfied because there were no other properties that could be subject to execution that could be levied upon, besides the shares of stocks registered with the Securities and Exchange Commission with Stocks Cert. Reg. No. A199703734.³⁹

According to Sheriff Villanueva, Atty. Lugares allegedly approached him and asked whether it was possible to garnish the individual stock certificates of NEC Cargo Services, Inc.⁴⁰ Sheriff Villanueva alleged that he consulted with his fellow Deputy Sheriffs about how to proceed. This led to Sheriff Villanueva meeting with the Clerk of Court and Ex-Officio Sheriff Atty. Engracio M. Escasiñas, Jr. (Atty. Escasiñas) and Judge Villarosa, then

²⁷ Id. at 2.

²⁸ Id. at 304.

²⁹ Id. at 306.

³⁰ Id. at 3.

³¹ Id. at 13–16.

³² Id. at 13.

³³ Id. at 17.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ Id. at 37.

³⁸ Id. at 26.

³⁹ Id.

⁴⁰ Id. at 13.

Presiding Judge of Branch 66 of the Regional Trial Court of Makati City.⁴¹

Sheriff Villanueva claimed that he was advised not to garnish the individual stocks since Rule 39, Section 9 of the Revised Rules of Court provided that the sheriff or officer may only levy on debts and credits, such as bank deposits, financial interests, royalties, and commissions, but not on stock certificates. He allegedly advised Atty. Lugares that he might be held administratively liable for gross ignorance of the law.⁴²

Sheriff Villanueva denied any attempt to extort money from Atty. Lugares. He alleged that if he had met with Atty. Lugares, it would only be out of courtesy due to the latter's persistence to garnish the stocks.⁴³

Sheriff Villanueva stated that Atty. Lugares offered him money as a "token of gratitude"⁴⁴ if the garnishment of the stocks would take place.⁴⁵ He denied all imputations of bribery alleged by Atty. Lugares and stated that Atty. Lugares was filing these charges against him to harass him.⁴⁶

Further, Sheriff Villanueva maintained that he would not risk being sanctioned or disciplined for a mere ₱8,000.00, after having served government for 18 years, 14 of which he served as a Deputy Sheriff. He alleged that Atty. Lugares had shown him a copy of the Complaint-Affidavit before it was even filed before the Office of the Court Administrator as a threat to ensure that the garnishment would proceed.⁴⁷

In his Reply-Affidavit,⁴⁸ Atty. Lugares raised that Sheriff Villanueva concocted a legal issue on the propriety of the execution to distract the Office of the Court Administrator from the real issue.⁴⁹

According to Atty. Lugares, he wanted Sheriff Villanueva to send Notices of Garnishment to NEC Cargo Services, Inc.'s incorporators. The unpaid subscriptions on NEC Corporation's stocks were debts and credits that could be subjected to garnishment.⁵⁰

⁴¹ Id. at 14.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id. at 14–15.

⁴⁷ Id.

⁴⁸ Id. at 6–8.

⁴⁹ Id. at 6.

⁵⁰ Id. at 7.

Atty. Lugares alleged that Sheriff Villanueva prepared these Notices of Garnishment. These notices were not served because Atty. Lugares refused to pay the ₱5,000.00 Sheriff Villanueva demanded.⁵¹

According to Atty. Lugares, there were no “illegal wishes”⁵² on his part. If he made these alleged “illegal wishes,” Sheriff Villanueva should not have prepared the Notices of Garnishment, scheduled their service on November 26, 2008, or inquired about the address of the garnishee, American Wire, Inc.⁵³ He denied approaching Sheriff Villanueva before the filing of the Complaint since the Order dated December 12, 2008 appointing a Special Sheriff had already been filed. This was prior to Sheriff Villanueva’s receipt of the Complaint on December 15, 2008.⁵⁴

The Office of the Court Administrator recommended this case for re-docketing as a regular administrative matter.⁵⁵ Further, the Court Administrator recommended the referral of the Complaint to Executive Judge Maria Cristina J. Cornejo (Executive Judge Cornejo) of the Regional Trial Court of Makati City for investigation and submission of her Report and Recommendation.⁵⁶ The First Division of this court approved the recommendations of the Office of the Court Administrator in the Resolution⁵⁷ dated July 29, 2009.⁵⁸

Executive Judge Cornejo began the investigation.⁵⁹ When she was appointed to the Sandiganbayan, Judge Tranquil Salvador, Jr. (Judge Salvador) took over the investigation.⁶⁰

In his Investigation Report and Recommendation,⁶¹ Judge Salvador recommended the dismissal of the Complaint. This was due to Atty. Lugares’ alleged desistance to testify on the contents of his Complaint. According to Judge Salvador, Atty. Lugares failed to prove his allegations with substantial evidence.⁶²

In its Memorandum⁶³ dated March 29, 2011, the Office of the Court Administrator recommended the dismissal of the Complaint for lack of evidence. It found that Atty. Lugares’ failure to prosecute the case invited

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id. at 8.

⁵⁵ Id. at 40.

⁵⁶ Id. at 41.

⁵⁷ Id. at 48–49.

⁵⁸ Id. at 48.

⁵⁹ Id. at 165.

⁶⁰ Id. at 274.

⁶¹ Id. at 136–140.

⁶² Id. at 140.

⁶³ Id. at 267–276.

suspicion that the Complaint was not filed with sincerity of purpose, or that a settlement was reached to cover up his misconduct. The Office of the Court Administrator recommended that Atty. Lugares should show cause why he should not be held in contempt of court for filing an unfounded Complaint against Sheriff Villanueva.⁶⁴

In the Resolution⁶⁵ dated June 22, 2011, this court adopted the recommendations of the Office of the Court Administrator by dismissing the case and requiring Atty. Lugares to show cause.⁶⁶

Atty. Lugares filed a Compliance with Motion for Reconsideration⁶⁷ where he manifested that he was willing to prosecute the case. He alleged that “he was not furnished . . . a copy of the Investigation Report of Judge Salvador.”⁶⁸ He claimed that no amicable settlement was reached with Sheriff Villanueva and that he had no improper motive in filing this case.⁶⁹ He attached as annexes⁷⁰ the photographs of the text messages that Sheriff Villanueva sent him.

In the Resolution⁷¹ dated March 5, 2012, this court recalled the Resolution dated June 22, 2011 dismissing the administrative Complaint for lack of evidence and ordered the case to be reopened. This court further ordered Executive Judge Benjamin T. Pozon (Executive Judge Pozon) of the Regional Trial Court of Makati City to conduct an investigation on the administrative Complaint.⁷²

The parties, particularly Atty. Lugares, were directed to attend the hearings⁷³ and submit their respective memoranda.⁷⁴ In the hearings, Atty. Lugares failed to present the text messages that he sent to Sheriff Villanueva from his phone.⁷⁵ These outgoing text messages were automatically deleted since his phone could only store a hundred messages at a time.⁷⁶

The parties submitted their respective memoranda to Executive Judge Pozon. In his Memorandum,⁷⁷ Atty. Lugares reiterated his allegations regarding Sheriff Villanueva’s willful neglect of duty and graft and

⁶⁴ Id. at 275–276.

⁶⁵ Id. at 277–278.

⁶⁶ Id. at 277.

⁶⁷ Id. at 279–284.

⁶⁸ Id. at 282.

⁶⁹ Id.

⁷⁰ Id. at 285–308.

⁷¹ Id. at 386–387.

⁷² Id. at 386.

⁷³ Id.

⁷⁴ Id. at 756.

⁷⁵ Id. at 674–675.

⁷⁶ Id. at 675.

⁷⁷ Id. at 527–533.

corruption.⁷⁸ He stated that since Sheriff Villanueva himself prepared the Notices of Garnishment, there was nothing illegal or improper about his request.⁷⁹ According to Atty. Lugares, Sheriff Villanueva “thwarted the Decision by refusing to execute it. He was able to set at naught all the hardships and labor of the plaintiff, Presiding Judge, Justices, lawyers and other court officers and employees in litigating the case.”⁸⁰

In his Memorandum,⁸¹ Sheriff Villanueva asserted that Atty. Lugares had no personality to complain since there “was no written specific authorization for [him] to file this administrative complaint[.]”⁸² Further, Sheriff Villanueva maintained that the “legal fees” that were being demanded from Atty. Lugares were payments required by the Office of the Clerk of Court, Cashier’s Section.⁸³ The “legal fees” pertained to the amount of ₱100.00 per Notice of Garnishment with the subsequent charge of 3.5% interest of the total amount to be paid to the Office of the Clerk of Court.⁸⁴ Sheriff Villanueva alleged that Atty. Lugares “never paid the required legal fees with the Office of the Clerk of Court[.]”⁸⁵

In his Report and Recommendation,⁸⁶ Executive Judge Pozon concluded that Sheriff Villanueva did not commit gross neglect of duty.⁸⁷ He stated that Atty. Lugares was not able to provide evidence to substantiate his claim that Sheriff Villanueva did not perform his duty.⁸⁸ On the other hand, Sheriff Villanueva was able to provide the affidavit of Atty. Escasiñas, Jr., confirming that when Sheriff Villanueva met with Atty. Lugares, it was to ensure the execution of the Decision.⁸⁹

Executive Judge Pozon relied on the testimony and affidavit of Sheriff Villanueva, particularly that of the meeting with Judge Villarosa who discouraged him from executing the Writ of Execution.⁹⁰

Executive Judge Pozon stated that “colors” in Sheriff Villanueva’s text message “*Dala mo na yung colors?*” pertained to the legal fees and not to a claim to extort money from Atty. Lugares. He found that the use of “colors” could not automatically be construed to pertain to something illegal.⁹¹

⁷⁸ Id. at 528–529.

⁷⁹ Id. at 529.

⁸⁰ Id. at 531.

⁸¹ Id. at 556–570.

⁸² Id. at 557.

⁸³ Id. at 563.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Id. at 754–764.

⁸⁷ Id. at 763.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

⁹¹ Id. at 763–764.

Executive Judge Pozon stated that upon his examination of the purported text messages, he found that these could not be construed as evidence that Sheriff Villanueva extorted money.⁹² Since Atty. Lugares' outgoing text messages to Sheriff Villanueva were not presented as evidence, the text messages from Sheriff Villanueva served as the sole evidentiary basis for Atty. Lugares' allegations.⁹³ Atty. Lugares' failure to show and verify the text messages he sent meant that the charges were bereft of evidence.⁹⁴ Hence, Executive Judge Pozon ordered that the Complaint be dismissed for lack of evidence.⁹⁵ He submitted his Report and Recommendation to the Office of the Court Administrator.⁹⁶

The issue is whether respondent Sheriff Alexander D. Villanueva is guilty of misconduct due to willful neglect of duty and corruption or extortion.

After a review of the records and the evidence, this court must reverse the findings of Executive Judge Pozon. Respondent should be subject to disciplinary sanctions.

*In Sison-Barias v. Rubia*⁹⁷:

The findings of fact of an investigating justice [or judge] must be accorded great weight and finality similar with the weight given to a trial court judge's since an investigating justice [or judge] personally assessed the witnesses' credibility. However, this rule admits of exceptions.

In *J. King & Sons Company, Inc. v. Judge Hontanosas, Jr.*, this court held:

Such findings may be reviewed if there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated, and which, if properly considered, would alter the result of the case. Among the circumstances which had been held to be justifiable reasons for the Court to re-examine the trial court or appellate court's findings of facts are, when the interference made is manifestly mistaken; when the judgment is based on misapprehension of facts; and when the finding of fact of the trial court or appellate court is premised on the supposed absence of evidence and is contradicted by evidence on record.⁹⁸ (Citations omitted)

⁹² Id. at 764.

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id. at 754.

⁹⁷ A.M. No. RTJ-14-2388, June 10, 2014
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/june2014/RTJ-14-2388.pdf>>
[Per Curiam, En Banc].

⁹⁸ Id. at 12–13.

A review of the facts is called for when the finding of a lack of administrative liability is premised on the supposed absence of evidence, but an examination of the record shows that there is evidence to support the allegations.⁹⁹ Even if respondent is initially exculpated based on an alleged lack of evidence to support the allegations, this court can still conduct its own assessment of the evidence on record and impose the corresponding administrative liability.¹⁰⁰

Respondent's neglect to faithfully execute his duties as Sheriff is supported by substantial evidence.

In Executive Judge Pozon's Report and Recommendation, he stated that Atty. Lugares failed to provide evidence showing that respondent committed the actions alleged in the Complaint. His exculpation of respondent from liability was primarily based on the fact that Atty. Lugares was unable to present his outgoing text messages:

COURT:

For the Court, Atty. Lugares.

Now, you have marked several text messages all coming from the respondents.

WITNESS: [Atty. Lugares]

A: Yes, Your Honor.

COURT:

And as a matter of fact, even up to the present, these text messages are still saved in your cell phone?

WITNESS:

A: Yes, Your Honor.

COURT:

How about the messages coming from you that took or answered by respondent thru his own text messages, did you also save those text messages?

⁹⁹ *J. King & Sons Company, Inc. v. Judge Hontanosas, Jr.*, 482 Phil. 1, 19–20 (2004) [Per Curiam, En Banc].

¹⁰⁰ *Sison-Barias v. Rubia*, A.M. No. RTJ-14-2388, June 10, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/june2014/RTJ-14-2388.pdf>> [Per Curiam, En Banc].

WITNESS:

A: Your Honor, with regard to the out coming messages, my cell phone only has that setting to 100 messages, it was overtime [sic] deleted, Your Honor, automatically.

COURT:

Overtime [sic] deleted. So you did not intentionally delete it?

WITNESS:

A: I did not, Your Honor.

COURT:

So whenever it reaches a certain maximum number of text messages, it is automatically erased?

WITNESS:

A: Yes, Your Honor, that's a setting in my cell phone, Your Honor.

COURT:

That is your claim. So, in short, even if we look at your text to your cell phone, we will no longer see these text messages coming from you?

WITNESS

A: Yes, Your Honor.

COURT:

As far as you can remember, Atty. Lugares, who, between you and respondent started sending text messages regarding this intimidation?

WITNESS

A: It was him first, Your Honor.¹⁰¹

Contrary to Executive Judge Pozon's position, however, Atty. Lugares was able to prove that respondent committed actions that warrant administrative liability.

In administrative cases, the quantum of evidence required is that of substantial evidence. In *Menor v. Guillermo*:¹⁰²

¹⁰¹ *Rollo*, pp. 674-676.

¹⁰² 595 Phil. 10 (2008) [Per J. Leonardo-De Castro, En Banc].

Administrative proceedings are governed by the substantial evidence rule. Otherwise stated, a finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the respondent has committed acts stated in the complaint. Substantial evidence is such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is justified when there is reasonable ground to believe that respondent is responsible for the misconduct complained of, even if such evidence is not overwhelming or even preponderant.¹⁰³ (Citations omitted)

There is substantial evidence to support Atty. Lugares' allegation of neglect of duty.

In previous administrative cases involving other court personnel, text messages were admitted as evidence and given probative value by this court.¹⁰⁴ In those cases, the court considered the content of the text messages and the identification of the person sending them as substantial evidence to prove the commission of administrative offenses.

Atty. Lugares was able to present the text messages he received in his cellular phone. He attached photographs of the screen of his cellular phone, showing the messages as they were received. He submitted respondent's calling card¹⁰⁵ that contained the same phone number seen in the text messages. Through this calling card, he was able to prove that respondent was the source of the text messages. Respondent denied meeting with Atty. Lugares, but he never denied sending the text messages to him.

The content of the text messages from respondent and the circumstances within which they were made constitute substantial evidence that justify the finding of administrative liability. The presentation of text messages that Atty. Lugares sent to respondent is not necessary.

Respondent's text messages sent to Atty. Lugares show an actual evasion of duty to implement the Writ of Execution. The contents of the text messages sufficiently prove his manifest refusal to properly implement the Writ of Execution.

Among the text messages presented by Atty. Lugares, Exhibit "V"¹⁰⁶ states that respondent sent Atty. Lugares the following text message: "*Nka*

¹⁰³ Id. at 15.

¹⁰⁴ *Sison-Barias v. Rubia*, A.M. No. RTJ-14-2388, June 10, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/june2014/RTJ-14-2388.pdf>> 17 [Per Curiam, En Banc]; *Villahermosa, Sr. v. Sarcia*, A.M. No. CA-14-28-P, February 11, 2014, 715 SCRA 639, 645 [Per Curiam, En Banc].

¹⁰⁵ *Rollo*, p. 342.

¹⁰⁶ Id. at 307.

pag Shf. return na ako dyan sa kaso na yan, bhala ka sa gusto mo mangyari.”¹⁰⁷ Respondent Sheriff Villanueva sent this text message at 9:06 a.m. on November 26, 2008.¹⁰⁸

That text message is evidence that respondent did not undertake his duty to implement the Writ of Execution. In his Reply, Atty. Lugares correctly stated that a cursory execution of the Sheriff’s Return did not excuse respondent from faithfully implementing the Writ of Execution. A writ of execution continues to be effective during the period within which a judgment may be enforced by motion,¹⁰⁹ which is within five (5) years from the entry of judgment.¹¹⁰ After the lapse of the five (5) year period, the judgment may be revived and executed before it is barred by the statute of limitations.¹¹¹ The failure to execute the judgment could result in years of protracted litigation. Thus, the Sheriff must exert the necessary effort to ensure that the judgment is duly executed.

Atty. Lugares sought to have the Notices of Garnishment served on the NEC Cargo Services, Inc.’s shareholders in order to garnish their unpaid subscriptions on their respective shares of stocks. If the service of the notices had been carried out in good faith, Atty. Lugares would not need to file an Ex-Parte Motion to Appoint Special Sheriff, which would lead to the appointment of Sheriff de Castro to serve the Notices of Garnishment anew.

Finally, respondent’s neglect is made evident when the Sheriff tasked to replace him was able to discharge his duties without incident. Respondent revealed during his testimony that unlike him, Special Sheriff Fermin de Castro was able to serve the Notices of Garnishment:

ATTY. LUGARES:

Q: And you are also aware, Mr. Witness, that sheriff De Castro was able to comply with the request of the plaintiff’s counsel, to serve the Notices of Garnishment.

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ RULES OF COURT, Rule 39, sec. 14.

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 thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

¹¹⁰ RULES OF COURT, Rule 39, sec. 6:

SEC. 6. *Execution by motion or by independent action.*— A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

¹¹¹ Id.

You are aware of that, because you in fact annexed his reports to your pleadings, is that correct?

WITNESS:

A: Reading upon the return, the sheriff's report of sheriff Fermin De Castro, were all negative results.

ATTY. LUGARES:

Q: Yes, but the negative results of the Notices of Garnishment is [sic] another matter from the non-service thereof, Mr. Witness. So my question is; [sic] you are aware of what sheriff Fermin De Castro has done?

WITNESS:

A: Yes, sir.¹¹²

Thus, respondent's failure to show that he did the necessary steps to implement the Writ of Execution in good faith cannot be tolerated by this court. Respondent violated Canon IV, Sections 1 and 6 of the Code of Conduct for Court Personnel:

SECTION 1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

....

SEC. 6. Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

"When a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate."¹¹³ "The Court has said time and again that a sheriff's duty in the execution of a writ is purely ministerial; he is to execute the order of the court strictly to the letter. He has no discretion whether to execute the judgment or not."¹¹⁴ "[T]he officers charged with the delicate task of the enforcement and/or implementation of the same must, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the administration of justice[.]"¹¹⁵

¹¹² *Rollo*, p. 740.

¹¹³ *Judge Calo, et al. v. Dizon*, 583 Phil. 510, 527 (2008) [Per J. Chico-Nazario, Third Division].

¹¹⁴ *Id.*

¹¹⁵ *Mendoza v. Sheriff IV Tuquero*, 412 Phil. 435, 442 (2001) [Per Curiam, En Banc], *citing Moya v. Bassig*, 222 Phil. 367, 370 (1985) [Per Curiam, En Banc].

For violating the Code of Conduct for Court Personnel and for failing to perform his duties as a Sheriff in an expeditious manner, respondent must be held liable for willful neglect of duty.

There is substantial evidence to support the allegation of extortion.

In addition to finding that respondent neglected his duty, this court finds that he is guilty of extortion.

Atty. Lugares alleged that during the meeting of November 24, 2008, respondent demanded ₱8,000.00 to execute the Decision.¹¹⁶ After Atty. Lugares had refused, respondent said, “[S]ayang lang ang pagod ko dito, kung wala naman tayong makokolekta”¹¹⁷ and “E wala pang 50% ang magagarnish natin diyan eh.”¹¹⁸

Respondent’s allegation that the Complaint against him stemmed from an illegal request by Atty. Lugares seeks to diminish Atty. Lugares’ credibility. However, this allegation does not disprove Atty. Lugares’ allegations. In response to respondent’s allegation, he was able to prove that his intention was to serve the Notices of Garnishment on the stockholders. There can be no ill motive that may be interpreted from Atty. Lugares’ request to be assisted by respondent.

Respondent’s consultations with Atty. Escasiñas and Judge Villarosa do not negate or disprove the allegation that he made the alleged statements and committed extortion during the meeting of November 24, 2008. When confronted with the allegation that he extorted from Atty. Lugares during the meeting, respondent only offers a bare denial without providing any contradictory evidence. With “respondent’s bare denial *vis-a-vis* the positive testimonies of the witnesses, the latter should prevail.”¹¹⁹

Adding greater weight to Atty. Lugares’ allegations are the text messages he presented as evidence. These text messages demonstrate willingness to secure some favor or concession in order for respondent to proceed with implementing the Writ of Execution promptly.

Executive Judge Pozon stated that the use of the term “colors” in the text messages did not show an attempt to demand money from Atty. Lugares

¹¹⁶ *Rollo*, p. 2.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Flores-Tumbaga v. Tumbaga*, A.M. No. P-06-2196, October 22, 2012, 684 SCRA 285, 291 [Per J. Peralta, Third Division].

and the law firm he represented. This court cannot uphold the finding of Executive Judge Pozon.

The usage of the term “colors” as a reference to certain “legal fees” that were demanded by respondent has no legal basis. The term “colors” is not found in Rule 39 of the Rules of Court, which provides for the procedure by which orders or decisions of the courts are executed. A thorough examination of the records, the Rules of Court and other applicable rules, and issuances or circulars governing the conduct of execution proceedings further reveals that there is, indeed, no basis for the use of this term in relation to the duties of a Sheriff.

Atty. Lugares’ narration of the purpose of the term “colors” provides basis for his claim of extortion. Neither respondent nor his counsel attempts to explain the use of the term, undoubtedly due to its dubious origin.

Respondent sent another text message where he told Atty. Lugares to facilitate a conversation between the former and Atty. Astorga, one of the partners of complainant law firm. Atty. Lugares presented evidence showing that on November 26, 2008 at 8:45 a.m., respondent sent this text message:¹²⁰ *“Patawagin mo nga c atty. astorga dto sa mobil phone ko para magconfirm tau sa legal fees.”*¹²¹

Respondent was already coordinating with Atty. Lugares for the service of the notices on the stockholders of NEC Cargo Services, Inc. His demand for communication with Atty. Astorga could only lead to the reasonable conclusion that respondent sought some other favor or concession to execute the Decision. By necessary implication, respondent refused to implement the Writ of Execution until these “legal fees” or “colors” were settled.

A refusal to coordinate with Atty. Lugares and a terse proposal to talk to Atty. Astorga regarding the payment of “legal fees” support the conclusion that respondent unjustly refused to implement the Writ of Execution, absent the consideration of settling certain “legal fees” or “colors.”

In his Memorandum to Executive Judge Pozon, respondent raised as a defense that the “legal fees” he was asking for were official payments to the Office of the Clerk of Court of the Regional Trial Court of Makati City. However, respondent did not raise this as a defense in the first and only Comment filed on February 27, 2009 before the Office of the Court Administrator, or in any of the earlier proceedings before Executive Judge Cornejo or Judge Salvador. The belated nature of this defense is suspicious,

¹²⁰ *Rollo*, p. 304.

¹²¹ *Id.*

considering that it should have been raised at the earliest possible opportunity by respondent.

With regard to the alleged non-payment of these so-called “legal fees,” Atty. Lugares categorically stated that all pertinent fees for execution had already been paid.¹²² This was why they were allowed to proceed with the execution. Since respondent alleged non-payment of these fees as a defense, he had the burden to prove that these were the “legal fees” he was pertaining to in the text messages.

Further, respondent was inconsistent in his testimony before Executive Judge Pozon. He admitted receiving the Writ of Execution on October 21, 2008,¹²³ and he did not deny sending a text message¹²⁴ to Atty. Lugares on the same date:

ATTY . LUGARES:

I’m showing Exhibit “A”, which read as follows: “*Gd. am atty. Lugares, this is shf. villanueva re: FGU writ br. 66 rtc. Can you arrange a meeting asap sir?*” This was sent October 29, 2008. Exhibit “B”, another text message coming from you: “*Check ko lng atty. L. kung nsa vicinity na kau po?*” This was sent October 29, 2008 1:10 pm., then this was followed by another text message coming from you, “*Sir proceed lng kau dto sa br. 144 rtc 10f Courtrm.*” . . . Then on Exhibit “D”, sent on October 29, 2008 a [sic] 2:59 pm, you sent another text message, stating: “*No atty. Lugares. walang Cert. true copy un Decision sa akin.*”

. . . .

So my question is; [sic] if you did not coordinate with the plaintiff’s counsel, how come you sent this [sic] text messages?¹²⁵

Despite the existence of these text messages and respondent’s failure to deny them, respondent still denied meeting with Atty. Lugares at any time after being assigned to implement the Writ of Execution.¹²⁶

WITNESS:

A: At first, Atty. Arnold Lugares is the first one who initiates the meeting. That text messages was [sic] sent

¹²² Id. at 234.

¹²³ Id. at 696.

¹²⁴ Id.

¹²⁵ Id. at 708–709.

¹²⁶ Id. at 700.

because we don't have any other way to arrange a meeting, but he was the one who first like the meeting to take place with regards to the Notice of Garnishment among incorporators.

ATTY. LUGARES:

Q: So now, Mr. Witness, what you are stating that that [sic] you have coordinated with plaintiff's counsel before your execution of the November 5, 2008 sheriff's return?

WITNESS:

A: What date was this [sic] text messages?

ATTY. LUGARES:

October 29, 2008.

WITNESS:

A: There were text messages and the sheriff's return has nothing to do with each other. At first, we were duty bound to do our duties to serve the writ of execution at the defendant's location.

ATTY. LUGARES:

Q: Mr. Witness, you will agree with me that you met with the plaintiff's counsel and Atty. Escasinas to discuss certain matters regarding the writ of execution?

WITNESS:

A: I can't remember that moment wherein Atty. Escasinas and Atty. Lugares and I, met.

ATTY. LUGARES:

Q: So you will deny that there was a meeting held?

WITNESS:

A: None whatsoever.

ATTY. LUGARES:

Q: And you would also not admit that you led the plaintiff's counsel Atty. Lugares at the 10th floor to discuss something in connection with the service of the Notice of Garnishment?

WITNESS:

A: None whatsoever.

ATTY. LUGARES

Q: What about your request for some amount of money, would you deny that?

RET. JUDGE VILLANUEVA:

Your Honor, we have denied that and I think that is improper for cross-examination, to elicit from the mouth of the witness an answer which is incriminating, Your Honor.

ATTY. LUGARES:

But he took the witness stand, Your Honor.

COURT:

Well, I will allow that.

....

ATTY. LUGARES:

Are you denying that you requested money from the plaintiff's counsel?

WITNESS:

A: Sir, we are [sic] raised by our father to be good citizen [sic] and responsible at [sic] that duties.

ATTY. LUGARES:

Q: So what is your answer?

WITNESS:

A: I never demanded whatsoever.

ATTY. LUGARES:

Q: And you did not demand any fee for the Notice of Garnishment?

WITNESS:

A: Only legal fees for the Notices of Garnishments.

ATTY. LUGARES:

Q: Now, do you confirm, Mr. Witness, that you actually scheduled a meeting with the plaintiff's counsel in order to serve the Notices of Garnishments for this case?

WITNESS:

A: I am not aware of the notice of garnishment itself. I am only aware of the fact that you eagerly want the arrangement meeting with me on that day.

ATTY. LUGARES:

Q: And you in fact agreed to set the meeting in order to serve the notice of garnishment?

WITNESS:

A: I told you I am not aware of the notice of garnishment to be served among incorporators.

ATTY. LUGARES:

Q: So you are denying that that [sic] you have set a meeting with the plaintiff's counsel in order to serve the notice of garnishment? Is it a yes or a no?

WITNESS:

A: No.

ATTY. LUGARES:

Q: So there was no such arrangement?

WITNESS:

A: No.¹²⁷

As seen in the records of the proceedings before Executive Judge Pozon, respondent categorically denied making any demand for money. However, a perusal of the records of the other proceedings contradicts his claim. In the proceedings before Executive Judge Cornejo, Atty. Lugares testified regarding the events that led to the filing of the Complaint against respondent:

COURT:

Ano ang exactly ang demand sa iyo?
(addressed to Atty. Lugares)

Atty. Lugares:

P8,000.00.

COURT:

No, no, how was the demand made?

¹²⁷ Id. at 709–713.

Atty. Lugares:

After our meeting with Atty. Escasinas, Atty. Escasinas said, to proceed with the execution and the Sheriff led me to the staircase instead of us just talking at his table just outside the office of Atty. Escasinas, tapos sinabi niya na nagdemand siya sa akin ng P8,000.00 para sa services niya para sa execute [sic] ng decision. And he further stated, “Sayang naman ang pagod ko dito kung wala naman tayong makukulekta e wala pang 50% na magagarnish natin diyan.” That is number 6 of our Complaint/Affidavit so I replied to him and explained to him that this is his job and he should not demand for money in exchange for two weeks job, that is why he lowered his price to P5,000.00. Despite that he is insisting that I should give it to him at that very instant or not later than the afternoon of that date November 24, 2008, otherwise, the Notice of Garnishment would not push through. That was his exact demand, your Honor. In fact, we coordinated, your Honor. . . .

COURT:

So what happened to the Notice of Garnishment dito? Wala?

Atty. Lugares:

Sa time niya, wala hong nangyari kasi ayaw na niya kumilos, e.¹²⁸

During these proceedings before Executive Judge Cornejo, the counsel for respondent was his father, Atty. Candido Villanueva (Atty. Villanueva), who made several statements binding on the defense of respondent:

Atty. Villanueva:

We deny that he demanded money. That is your allegation.

Atty. Lugares:

Yes, defendant always deny [sic] matters. We are used to that. We can prove that.

Atty. Villanueva:

To demand is to extort by to intimidate you to give money. It never happened that way as you alleged. He said, you insinuated, “may dala ka bang ganito?” He must be a young idealistic lawyer but we who are all in the profession, you know how to deal with this [sic] people.

¹²⁸ Id. at 181–183.

....

Atty. Villaneuva:

Actually, what happened here, despite your allegation na mayroon demand or insinuation of money, hindi ka naman nagbigay kahit isang pera. Walang damage except your thinking that it tarnishes the administration of justice, a Sheriff should not do that. Well, I agree with you but it is a question of pag-aaralan yung circumstances paano nangyari. Pero ang issue sa kaso mo hindi ka pa nakakasingil dun sa defendant, sa mga officers. Kawawa naman itong, in the course of trying to collect from the defendant, naiipit itong mga low salaried employee dun sa ano, I agree with you we have to clean up the judiciary pero baka naman we are being too harsh against them or you misinterpret their words to mean they are after money when actually they are not. Kasi pag ikaw ang magdedemand nang service ng writ of execution, you have to pay to the Sheriff certain amount, di ba?¹²⁹ (Emphasis supplied)

In his defense of respondent, Atty. Villanueva elaborated on what he alleged to be Atty. Lugares' motives for filing the Complaint:

Atty. Villanueva:

Ang nakikita ko sa kaso, I think counsel is being so self-righteous, "I want to clean-up the judiciary." Ganyan, ganyan. "Itong mga taong ganito kailangan weed-out from the service." E, ang liit na bagay na ito, hindi ka nga nahingian nang kahit isang pera at saka yung nagpapa-serve talaga ng Writ of Execution, may binabayaran sa Sheriff's Office nang service ng Writ of Execution, wala ka pa rin nabayaran dun.

Atty. Lugares:

Sino nagsabi po? We are already paid with that.

Atty. Villanueva:

Sa service nitong Writ of Execution?

Atty. Lugares:

Opo, sa unang Sheriff, nabayaran na namin yung Writ of Execution kaya nakapag-proceed siya, e.

Atty. Villanueva:

¹²⁹ Id. at 214–218.

Kung nagpapa-serve ka ng Writ of Execution, talagang may binabayaran?

Atty. Lugares:

Nabayaran na po lahat. Kaya po kami may appointment that morning para dun sa transportation niya, wala nang gastos, ako na mismos [sic] ang magsasama sa kanya duon. So there is no need to give P8,000.00. Kasi ang premise po niya, e, “Magbigay ka nang P8,000.00 which he lowered to P5,000.00, kung hindi hindi matutuloy ang service nang Notice of Garnishment na iyan.” Hindi na nga natuloy, tapos ang dahilan niya nasa Marikina area siya.

Atty. Villanueva:

Hindi ka naman napilitan magbigay kahit piso, ayaw mo talagang magbigay dahil masama nga yun, di ba?

Atty. Lugares:

Pero ang point dito bakit siya nagdedemand?

Atty. Villanueva:

Sa makatuwid, walang [sic] talagang na [sic] material damage sa iyo na nagbigay ka and somebody else enriched himself with your money, wala, except that you did not like the attitude of the Sheriff na “Bakit siya hihihingi [sic] eh, dapat trabahuin niya, di ba ganun?”¹³⁰ (Emphasis supplied)

Counsel for respondent stated that, since no exchange of money took place and no one was enriched, then no extortion or bribery took place. Further, counsel for respondent raised as a defense that respondent did not “intimidate” Atty. Lugares to give a certain amount to execute the Decision.

Respondent’s defense directly contradicts his own abject denials that any meeting took place between him and Atty. Lugares regarding the payment of “legal fees.” Respondent and his counsel cannot deny the occurrence of any meeting while asserting that Atty. Lugares did not pay respondent any money when that meeting took place. The sheer inconsistency of these two positions casts serious doubts on respondent’s defense against the allegations in the Complaint. Respondent cannot expect to evade liability by relying on two contradictory arguments.

Taking all these findings in consideration, there is substantial evidence to support Atty. Lugares’ allegations that respondent demanded the amount

¹³⁰ Id. at 233–236.

of ₱8,000.00 to serve the Notices of Garnishment. Respondent's bare denials and conflicting positions cannot counter Atty. Lugares' consistent narrative of facts.

Respondent is guilty of gross misconduct and must be dismissed from the service.

Having found substantial evidence to prove Atty. Lugares' allegations, respondent must be held accountable by this court. He has failed to uphold the high standard of integrity required by a position in the judiciary. He has violated Canon 1, Sections 1 and 2 of the Code of Conduct for Court Personnel:

CANON I

FIDELITY TO DUTY

SECTION 1. Court personnel shall not use their official position to secure unwarranted benefits, privileges or exemptions for themselves or for others.

SEC. 2. Court personnel shall not solicit or accept any gift, favor or benefit based on any or explicit or implicit understanding that such gift, favor or benefit shall influence their official actions.

Respondent has been found guilty of soliciting money from litigants in order to execute his duties as a Sheriff. This deplorable behavior in some court personnel must be stopped. In *Villahermosa, Sr. v. Sarcia*:¹³¹

The Code of Conduct for Court Personnel requires that court personnel avoid conflicts of interest in performing official duties. It mandates that court personnel should not receive tips or other remunerations for assisting or attending to parties engaged in transactions or involved in actions or proceedings with the judiciary. "The Court has always stressed that all members of the judiciary should be free from any whiff of impropriety, not only with respect to their duties in the judicial branch but also to their behavior outside the court as private individuals, in order that the integrity and good name of the courts of justice shall be preserved." Court personnel cannot take advantage of the vulnerability of party-litigants.

. . . .

Indeed, "[a]s a court employee, [one] should be more circumspect in [one's] behavior and should [steer] clear of any situation casting the slightest of doubt on [one's] conduct."¹³² (Citations omitted)

¹³¹ A.M. No. CA-14-28-P, February 11, 2014, 715 SCRA 639 [Per Curiam, En Banc].

¹³² Id. at 647–648.

Respondent is guilty of gross misconduct. *Sison-Barias* defined gross misconduct:

Respondents in this case failed to subscribe to the highest moral fiber mandated of the judiciary and its personnel. Their actions tainted their office and besmirched its integrity. In effect, both respondents are guilty of gross misconduct. This court defined misconduct as “a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.” In *Camus v. The Civil Service Board of Appeals*, this court held that “[m]isconduct has been defined as ‘wrong or improper conduct’ and ‘gross’ has been held to mean ‘flagrant; shameful’ This Court once held that the word misconduct implies a wrongful intention and not a mere error of judgment.”¹³³ (Citations omitted)

Thus, respondent must face the full consequences of his actions. This court will not abandon its responsibility in exacting the highest amount of integrity from those within its ranks. Respondent must be dismissed from the service.

***Araza v. Garcia and Judge Tan v. Paredes* justify the dismissal of respondent from the service.**

In previous administrative cases, this court has dismissed Sheriffs who violated their duty to faithfully execute the courts’ decisions.

In *Araza v. Garcia*,¹³⁴ this court dismissed respondent Sheriff Marlon Garcia from service.¹³⁵ He refused to conduct an inventory of the property seized from the judgment debtor.¹³⁶ He told the spouse of complainant Wilfredo Araza that no inventory would be conducted until the latter paid the assisting sheriff the amount of ₱1,000.00.¹³⁷ This court held that respondent Sheriff Marlon Garcia should be liable for his actions:

As regards the fact that respondent Garcia asked from complainant one thousand (₱1,000.00) pesos to be given to assisting sheriff respondent Nicolas A. Tonga, the evidence showed that complainant refused to give the amount demanded. However, complainant directly gave ₱1,000.00 to Rustom Galicia who prepared the inventory of materials seized. Such act of asking complainant for money intended for “assisting” sheriff Tonga was

¹³³ *Sison-Barias v. Rubia*, A.M. No. RTJ-14-2388, June 10, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/june2014/RTJ-14-2388.pdf>> 31 [Per Curiam, En Banc].

¹³⁴ 381 Phil. 808 (2000) [Per Curiam, En Banc].

¹³⁵ Id. at 818.

¹³⁶ Id. at 813–814.

¹³⁷ Id. at 815.

virtually an extortion. The sheriff assigned by the court was not authorized on his own, to appoint an “assisting” sheriff or a “technical” adviser. Decidedly, it was in violation of Supreme Court Administrative Circular No. 31-90.¹³⁸ (Citations omitted)

In *Judge Tan v. Paredes*,¹³⁹ this court dismissed respondent Sheriff Henry G. Paredes for demanding the amount of ₱10,000.00 from the plaintiff to execute the decision:

The OCA found Sheriff Paredes liable for gross misconduct and dishonesty for failure to comply with the provisions of Section 9, Rule 141. Contrary to the findings of Judge Tomaneng, records showed that Mrs. Mijares testified that Sheriff Paredes demanded and asked ₱10,000. Further, the OCA noted that this was the first case against the sheriff who had been with the judiciary for twenty-seven years.

We agree with the findings of the OCA, concerning the charges against Sheriff Paredes. Under Section 9, Rule 141 of the Rules of Court [now Rule 141, Section 10 of the Rules of Court, as revised by Administrative Matter No. 04-2-04-SC, effective August 16, 2004], the sheriff is required to secure the court’s prior approval of the estimated expenses and fees needed to implement the court process. The requesting party shall deposit such amount with the Clerk of Court. These expenses shall then be disbursed to the executing Sheriff subject to his liquidation within the same period for rendering a return on the process or writ. Any unspent amount shall be refunded to the party who made the deposit.

In the implementation of a writ of execution, only the payment of sheriff’s fees may be received by sheriffs. Sheriffs are not allowed to receive any voluntary payments from parties in the course of the performance of their duties. To do so would be inimical to the best interests of the service because even assuming *arguendo* 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. *Corollary, a sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps, otherwise, it would amount to dishonesty or extortion.*¹⁴⁰ (Emphasis supplied, citations omitted)

In *Araza*, respondent Sheriff Marlon Garcia was found guilty of violating the provisions of Supreme Court Administrative Circular No. 31-90 concerning sheriffs and the fees that may be provided to them. In *Judge Tan*, respondent Sheriff Henry G. Paredes was found guilty of violating the same provision, which was incorporated into the Rules of Court under Rule

¹³⁸ Id.

¹³⁹ 502 Phil. 305 (2005) [Per Curiam, En Banc].

¹⁴⁰ Id. at 313.

141 by Administrative Matter No. 00-2-01-SC.¹⁴¹ Presently, the rules governing fees that may be provided to the sheriff are stated in Rule 141, Section 10 of the Rules of Court:¹⁴²

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.*** 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. (Emphasis supplied)

Thus, respondent violated not only the Code of Conduct for Court Personnel but also Rule 141, Section 10 of the Rules of Court. He failed to implement the Writ of Execution. He failed to get the approval of the court in demanding "colors" and "legal fees" from Atty. Lugares.

The similarities among *Araza*, *Judge Tan*, and this case cannot be ignored. All three cases involve the refusal of the Sheriff to faithfully implement the Writ of Execution. They involve the demand of a sum of money by the Sheriff tasked with the implementation of the Writ of Execution. Even if respondent did not actually receive any money from Atty. Lugares, it is the practice of demanding money that this court seeks to end.

In *Villahermosa*, this court found that to its dismay, "it has received many complaints from party-litigants against court employees extorting

¹⁴¹ Administrative Matter No. 00-2-01-SC, dated March 01, 2000, entitled "RESOLUTION AMENDING RULE 141 (LEGAL FEES) OF THE RULES OF COURT.";

Sec. 9

....

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 of for each kilometer travel, guard's 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.

¹⁴² As amended by Administrative Matter No. 04-2-04-SC, effective August 16, 2004.

money from them.”¹⁴³ This court must take decisive action in its efforts to ensure that the judiciary is free from any hint of corruption.

The role that Sheriffs play in the dispensation of justice is pivotal. They serve as the agents to ensure that arduous and painstaking court proceedings will result in a final execution. It is incumbent upon them to act in a manner fitting of the dignity of their office as employees of the judiciary. Respondent failed to subscribe to this solemn duty. To deter similar cases of gross misconduct, this court is mandated to impose a sanction befitting his administrative liability.

WHEREFORE, respondent Sheriff Alexander D. Villanueva is found **GUILTY** of willful neglect of duty and serious misconduct due to graft and corruption and extortion and is **DISMISSED** from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to his re-employment in any branch or service of the government, including government-owned and controlled corporations.

This Resolution is immediately executory.

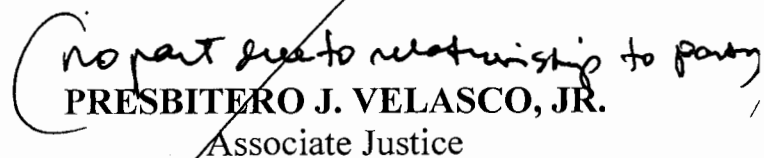
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice


no part due to relationship to party

PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(on leave)
ARTURO D. BRION
Associate Justice

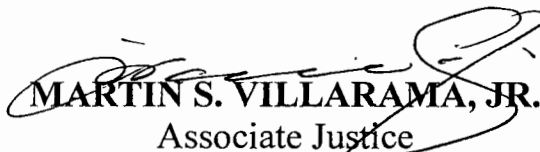
¹⁴³ Villahermosa, Sr. v. Sarcia, A.M. No. CA-14-28-P, February 11, 2014, 715 SCRA 639, 648 [Per Curiam, En Banc].

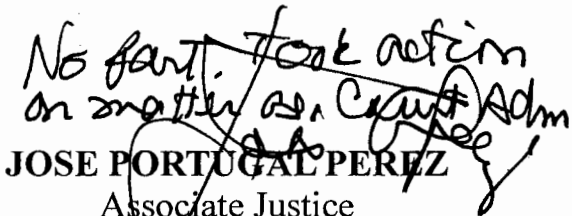



DIOSDADO M. PERALTA
 Associate Justice



LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice


MARTIN S. VILLARAMA, JR.
 Associate Justice

*No fault. Took action
on matter as Capt Adm.*

JOSE PORTUGAL PEREZ
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


BIENVENIDO L. REYES
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice

(on official leave)
FRANCIS H. JARDELEZA
 Associate Justice

