

THIRD DIVISION

[A.M. NO. P-06-2109, November 27, 2006]

**LIGAYA V. REYES, COMPLAINANT, VS. MARIO PABLICO,
PROCESS SERVER, REGIONAL TRIAL COURT, MANILA, BRANCH
40, RESPONDENT.**

DECISION

CARPIO, J.:

The Facts

This administrative case stemmed from a Complaint and a Supplemental Complaint dated 16 October 2001 and 10 December 2001, respectively, filed by Ligaya V. Reyes ("complainant"), Officer-in-Charge, Regional Trial Court (RTC) of Manila, Branch 40 ("trial court"), against Mario Pablico ("respondent"), trial court Process Server.

Complainant charged respondent with neglect of duty, inefficiency, incompetence, willful violation of office regulation, and acts prejudicial to the best interest of the service. Complainant alleged that:

1. Respondent failed to submit returns or to attach proof of service of notices and subpoenas issued by the trial court.^[1] In some criminal cases, respondent simply failed to serve subpoenas, causing the resetting of hearings and other court proceedings.^[2]
2. Respondent sent a notice of order dated 6 October 2000 to the Public Attorneys Office only on 27 July 2001 (PAO) and to the public prosecutor only on 1 August 2001.^[3]
3. In Criminal Case No. 00-182699, the presiding judge ordered respondent to serve personally a subpoena to the private complainant. However, it was Wilfredo Giron ("Giron"), a trial court staff member, who served the subpoena.^[4] Giron often prepared "mail matters" pertaining to civil cases in the trial court.
4. Some notices^[5] were served upon the public prosecutor and the PAO not by respondent but by Jojie Malapajo ("Malapajo"), another trial court staff member.
5. The presiding judge ordered respondent to serve personally certain subpoenas, yet respondent served them through registered mail^[6] or coursed them through the Manila Sheriff's Office ("Sheriff's Office").^[7]

6. Respondent failed to serve a notice of order provisionally dismissing Criminal Case Nos. 87-54763 and 87-54764, to the public prosecutor and the PAO. For lack of service to the public prosecutor and proper parties, the trial court denied on 16 August 2000 accused's motions for absolute dismissal.^[8]
7. On 17 October 2000, complainant issued a memorandum to respondent regarding his failure to submit returns on court processes, thus:

MEMORANDUM TO: Mario Pablico of Branch 40
RTC Manila

SUBJECT: Non Submission of Return

For your information, guidance and compliance. You were forewarned before regarding this subject. And several orders of the court reflected your nonperformance of duty.

Starting date of this memo your inaction shall be reflected on the performance rating and the Court Administrator will be furnished a copy of the same.

Manila, October 17, 2000.

LIGAYA V. REYES
Officer-In-Charge

x x x x^[9]

8. On 18 July 2001, complainant sent respondent a letter reminding him of his duties as process server and directing his strict compliance.^[10]
9. Despite complainant's admonitions, respondent failed to serve a subpoena issued on 31 August 2001 which directed the appearance of the accused before the trial court on 4 December 2001. Instead, a certain "E. Hernandez" served the subpoena on 9 December 2001.^[11]
10. Respondent also failed to serve an order requiring a detention prisoner's appearance for promulgation of judgment. This time, it was trial court Presiding Judge Placido C. Marquez ("Judge Marquez") who admonished respondent in open court, thus:

x x x x

ORDER

The process server of this Court is directed to explain in writing within 24 hours from receipt hereof why this produce order to Dennis Samson y Pontaneles, dated October 26, 2001, has not been served to the person of Dennis Samson, such that the promulgation of the decision could not be held.

Let the promulgation of the decision be reset to November 27, 2001

x x x x^[12]

11. In a memorandum dated 26 November 2001, Branch Clerk of Court Gilbert Benjamin ("Atty. Benjamin") called respondent's attention to his neglect of duty and his absences.

MEMORANDUM TO: MARIO PABLICO

RE: NEGLIGENCE OF DUTY AND ABSENCES

x x x x

Lately, in Criminal Case No. 00-187290, a warrant of arrest against the accused and orders of forfeiture of bail against the bondsmen were issued on October 17, 2001. However, the record does not show whether said orders were served or not. Anent the warrant of arrest, the same was served on October 25, 2001 but the received copy/return was found on top of your table and was not attached to the record. Secondly, in Criminal Case No. 01-192294, entitled "People of the Philippines versus Dennis Samson y Pontaneles," the accused was not around for the promulgation of the decision on the said case. Upon inquiry of Ligaya V. Reyes, the produce order was released on October 26, 2001. However, the same was not served. Furthermore, the said order was lying idly on top of your table. As a consequence of which the undersigned ha[d] to order the Sheriff of this court to personally serve the produce order in Criminal Case No. 01-192294 and the Clerk III to personally serve the two (2) orders of forfeiture of bail in Criminal Case No. 01-187290.

In Criminal Case No. 01-191083, an order dated November 5, 2001 was issued requiring you to explain within twenty four (24) hours why the subpoena dated October 17, 2001 was mailed only on October 23, 2001. Another order, dated November 12, 2001 was issued in Criminal Case No. 01-192294 requiring you to explain in writing why the produce order has not been served. x x x x^[13]

In his Comment dated 30 January 2002, respondent denied the charges against him. Respondent appended his performance rating form for the period 1 January to 30 June 2001, where he received an "outstanding" rating from complainant.^[14] Respondent presented records from the trial court to prove that he served the notice of order dated 16 April 2001 for Criminal Case No. 99-175986 on time and that he submitted a return.^[15] For those court processes he allegedly served through registered mail or coursed through the Sheriff's Office, against the directive of the presiding judge, respondent asserted that he never actually received a copy of these documents.^[16] Respondent claimed that either the clerk in charge of criminal cases or complainant herself had mailed the documents or sent them to the Sheriff's Office.

Respondent admitted that Giron served a subpoena in Valenzuela, but it was upon the request of then trial court Presiding Judge Herminia Pasamba ("Judge Pasamba"), who knew of Giron's familiarity with the area. Respondent also admitted

the belated service of the notice of order dated 6 October 2000, but argued that he received a copy of the order only on 27 July 2001, as evidenced by his signed receipt on the dorsal portion of the notice.

In his comment to the Supplemental Complaint, respondent disclosed an agreement with Malapajo, trial court clerk in charge of criminal cases, that the latter would personally serve court processes to the public prosecutor and the PAO, whose offices were very near the trial court.

To ascertain the authenticity of the documentary evidence submitted by the parties and the veracity of their conflicting statements, the Court referred the complaint to Executive Judge Antonio M. Eugenio, Jr. ("Judge Eugenio") of the RTC of Manila for investigation, report and recommendation.^[17]

Findings of the Investigating Judge

In his Report and Recommendation^[18] dated 21 July 2005, Judge Eugenio accepted respondent's explanation that Judge Pasamba instructed Giron to serve a notice in Valenzuela. Judge Eugenio found that contrary to the allegation of complainant, respondent served notices in Criminal Case Nos. 99-175986 and 99-175987 not through registered mail but through personal service. The records indicate that the trial court provisionally dismissed the cases as shown by respondent's return stating that the addressee had transferred residences.

Judge Eugenio favorably noted the affidavit executed by Jerlyn Balbas ("Balbas"), a trial court staff member, declaring that on 22 May 2001 complainant instructed her to deliver notices to the Sheriff's Office. Judge Eugenio found this affidavit supportive of respondent's claim that he never received some of the notices to be served, as complainant gave them directly to Balbas or to other clerks. Giron also executed an affidavit stating that whenever respondent was out serving court processes, he, as clerk in charge of civil cases, would receive "mail matters and pleadings from the litigants."

In conclusion, Judge Eugenio found that respondent had "a tendency to neglect his work, to the prejudice of the public he is duty bound to serve." Judge Eugenio recommended that the Court find respondent guilty of simple neglect of duty and reprimand him, with a strong warning that a repetition of similar acts would merit a more severe penalty.

On 31 August 2005, we resolved to refer the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

Findings of the Court Administrator

In its memorandum dated 22 November 2005, the OCA recommended the redocketing of the case as a regular administrative matter. The OCA agreed with the findings of Judge Eugenio, upon making the following evaluation:

x x x x

It is undeniable that the respondent was remiss in the performance of his duties. This is shown by the fact that he was unable to serve mail