

SECOND DIVISION

[A.M. NO. P-05-1930(FORMERLY A.M. OCA IPI NO. 03-1698-P), January 14, 2005]

**LOLITO B. SULIT, COMPLAINANT, VS. SOTERO A. MATIAS,
SHERIFF IV REGIONAL TRIAL COURT, PASIG CITY, BRANCH 263,
RESPONDENT.**

DECISION

CALLEJO, SR., J.:

The instant administrative complaint arose when Lolito B. Sulit filed a sworn Affidavit-Complaint^[1] dated June 25, 2003 charging Sotero A. Matias, Sheriff IV, Regional Trial Court (RTC), Pasig City, Branch 263, with gross misconduct.

The complainant alleged that he owned a maroon Toyota four-by-four pick-up truck with plate number URY 362. By virtue of a writ of preliminary attachment issued by the RTC of Pasig City, Branch 263, on April 4, 2003, the respondent took the vehicle into his custody. The complainant further alleged that on April 17, 2003, he and his wife Marivic Sulit were on their way to Concepcion, Tarlac from Nueva Ecija in his Kia Besta van with the Spouses Edilberto and Perla Venzon, Flor Moraleda, Glenn Pascua, Monette Pascua and Marciano Pascua. At about 2:00 p.m., while they were on the road to La Paz, Tarlac, they spotted the pick-up truck with the respondent on the wheel. They followed the truck and noticed that even the back portion was full of passengers. The pick-up truck stopped at a small hut, and everyone alighted, including the respondent.

The complainant then confronted the respondent and said, "*Bakit mo dala iyan? 'Di ba dapat nasa storage yan ng RTC ng Pasig?*" The respondent replied, "*Kasi pinadala sa akin ni Judge Geronimo at pinagamit.*" To this the complainant said, "*Pag nasira at naaksidente ka, paano yan?*" The respondent apologized and said, "*Pasensya ka na, nagamit ko ang sasakyan mo kasi ako ay nagpapabasa ng pasyon dito at kasama ko ang pamilya ko.*"

The complainant further alleged that his friend Junjun Macalintal again spotted the pick-up truck in Quiñahan, Quezon, sometime in June 2003. Thinking that he was the one driving the vehicle, Macalintal approached the driver and was surprised to find a man with a scar on his face, the respondent sheriff.

In his Comment dated July 1, 2003, the respondent admitted that the vehicle in question was in *custodia legis*, and was taken from the complainant by virtue of a Writ of Preliminary Attachment issued by Pairing Judge Isagani A. Geronimo of the RTC of Pasig City, Branch 263. He further alleged that –

2. Sometime in the year 2000 a Memorandum was issued by the Governor of Rizal directing the Deputy Sheriffs/Office of the Clerk of

Court to remove all attached/levied vehicles parked in front of the Hall of Justice for lack of parking space. For this reason, for lack of a venue/warehouse where vehicles may be deposited, attached/levied units are brought to safer garage. In my case, in my home.

3. During the holy week of 2003, I received an emergency call from my cousin informing me that our grandmother was very ill, forcing me to go home to the province. Aware that the attached vehicle in my possession cannot be left in the Capital Compound, I decided to bring the vehicle instead as there was no other safer garage where I can deposit the unit.

4. Further, as no one would be left in the house to look after the vehicle, I was apprehensive to leave the vehicle in my garage. Apart from the fact that bad elements might steal/carnap the vehicle, there is also the incident of other unforeseeable events to consider such as fire. In fact, just days prior to the date in question, two separate incidents of fire which razed two houses away from my residence occurred.

5. Likewise, there is no truth to the allegation of Lolito B. Sulit that I used the pick-up in going to Quezon province. There is no reason for me to go to Quezon either officially or otherwise. More importantly, as there was a communication from the plaintiff Vicente Josefa that the defendant Lolito Sulit has a buyer of the vehicle named Rolando Yamsuang who wants to see the unit, I made arrangements with the guard to allow me to use the empty space near Eulogio Rodriguez Building as parking space for the pick-up. Thus, since May 23, 2003, the vehicle has been parked there. Attached herewith is a copy of the logbook of the Security Guard and Certification as Annexes "A" and "B."

6. My act in using the pick-up in going to the province was not tainted with malice nor abuse of authority. I used the same with the best of interest in mind and in order to avert possible greater damage to the same.^[2]

The matter was assigned to Executive Judge Edwin A. Villasor of the RTC of Pasig City, for investigation, report and recommendation.^[3]

The complainant testified that he knew the respondent because he was the one who effected the attachment of the vehicle in question on April 4, 2003. He was told that the vehicle would be brought to the RTC of Pasig City to be deposited. The next day, he went to the RTC to file a counter-bond, but was told that the P50,000.00 he brought was not enough, that P100,000.00 was needed for the bond. The complainant asked to see the vehicle, but the respondent did not allow him to do so.

The complainant reiterated the contents of his complaint-affidavit, that he saw his pick-up truck fully loaded with passengers being driven by the respondent somewhere in Tarlac. When he told Judge Geronimo about the matter, the latter got angry and stated that he did not give any authority to the respondent sheriff to use the vehicle. The complainant's wife, Marivic Sulit, corroborated the statements of her husband.

For his part, the respondent sheriff testified that when he attached the subject