

## **EN BANC**

**[ A.M. No. P-14-3188 [Formerly OCA I.P.I. No. 12-3879-P), January 28, 2020 ]**

**ARLENE L. AMBROSIO, COMPLAINANT, VS. SOLMINIO B. DELAS ARMAS, SHERIFF IV, BRANCH 265, REGIONAL TRIAL COURT, PASIG CITY, RESPONDENT.**

### **D E C I S I O N**

#### **PER CURIAM:**

This resolves the Complaint<sup>[1]</sup> filed on May 23, 2012 by Arlene L. Ambrosio (complainant) against Sheriff IV Solminio Delas Armas ( Sheriff Delas Armas) of Branch 265, Regional Trial Court (RTC), Pasig City, for Oppression, Dishonesty, Grave Misconduct, Harassment, and Unethical Conduct in violation of Republic Act (R.A.) No. 6713 in relation to R.A. No. 3019.

#### **Antecedents**

Complainant filed a Motion to Declare Defendants in Default<sup>[2]</sup> in Civil Case No. 72902-PSG, entitled Arlene Ambrosio v. New RBW Marketing, Inc. and Kevin Manaloto pending before Branch 265, RTC, Pasig City in which Delas Armas was the branch sheriff. The said motion was denied in the Order<sup>[3]</sup> dated February 16, 2012, copies of which were sent to the parties and their respective counsel by registered mail on March 2, 2012, while complainant received her copy on March 8, 2012.<sup>[4]</sup>

However, prior to the Order being sent to the parties, in the afternoon of February 29, 2012, Sheriff Delas Armas, through his number +63918 951 3361, contacted complainant's husband, Cesar P. Ambrosio (Cesar) in his cellular phone number +63915 250 8859 regarding complainant's case, to wit :

Respondent Sheriff Delas Armas : "Pwede ba tayo mag usap ngayon? Punta ka d2 opis"

Cesar Ambrosio: "Morong pa sir bka mga 5 pa mkabalik bka pde tomorrow a.m. Pnthan kta"

Respondent Sheriff Delas Armas: Importante lang, regarding case mo

Cesar: Ok pre habol nlang ako pilitin ko before 5 mkabalik

Respondent: Tawag ka Muna

Cesar: Teka sir mag start npo hearing

Respondent: Cge

Cesar: Sherif kakatapos lng hearing mga 1 hour travel time frm morong to pasig. Trapik na coding pako. 2Mro a.m. Punta ko jan.Tnx

Respondent: D2 ka punta armal bowlingan. Agahan mo baka rna mail na yung order na denied, pinakiusapan ko lang si oic na wag munang I mai1[5]

Hearing the order of denial of the motion, Cesar immediately called Sheriff Delas Armas who told him that allegedly there were two orders prepared by the trial court and that it was the order denying the motion that was signed by the presiding judge. After which, they agreed to meet the next day.[6]

The next day, Cesar, with his friend Cyril Manaoag (Cyril), went to Branch 265, RTC of Pasig City to secure a copy of the order. They met Sheriff Delas Annas who showed them the order and its dispositive portion denying complainant's motion to declare defendants in default. Cesar told Sheriff Delas Armas that he will just accept the order although aggrieved. However, Sheriff Delas Armas retorted: "*Ha, Payag ka na dyan sa order DENIED?*" Thereafter, they went outside the office to talk privately, to wit:

Cesar: Pano to Sheriff?

Sheriff: Gusto kitang tulungan. Pakikiusapan ko si OIC at Judge kung papayag na i-Grant. Pero syempre meron konting gastos?

Cesar: Paanong gastos? Anong tinitingnan natin? Wala kasi akong ideya kung magkano?

Sheriff: Hindi naman gaano o ganoon kalaki ang kailanganin.

Cesar: Ano nga iyon? Magkano ang kakailanganin?

Sheriff: Pwede na siguro mga sampung libo or kaya lima lang.

Cesar: Ha! Kung limang libo, baka makagawa pa ako ng paraan. Pero kung sampu, mga ilang araw ang kakailanganin ko bago ako makabuo ng ganoong halaga.

Sheriff: Sige, subukan kong kausapin kung papayag sila, tawagan nalang kita o text kita.[7]

At 1:00 p.m. of the same day Sheriff Delas Armas texted Cesar saying that he was not able to convince the OIC and the Judge to change the order because the said order had already been made. The corresponding text messages are as follows:

Sheriff: Di pumayag, dapat daw nung di pa nagawa order, saka naki usap, parang napasan1a pako at parang nag leak daw order

Cesar: Saan nagleak? Tayo lng magka-usap ah. Tsaka ikaw may sabe na

dalawa order isang granted at isang denied gumagawa nko paraan para makalikom ng 10k.

Cesar: Gumagawa nko paraan balik ako jan b4 5pm kuhanin ko un order.

[8]

Cesar and Cyril went back to Branch 265 at around 4:00 p.m. But Sheriff Delas Armas was no longer around. They requested for a copy of the order but the female staff who attended to him denied knowledge of the order. Cesar then texted Sheriff Delas Armas that he indeed went to Branch 265 and they agreed to just meet the next day.

On March 2, 2012, Cesar and Cyril returned to Branch 265 and met with respondent Sheriff Delas Armas at the 6<sup>th</sup> floor of the Hall of Justice where an argument ensued between Cesar and respondent, to wit:

Cesar: Sheriff:, ano nangyari? Alam na alam mo na kami biktima dito, binibiktima nyo pa kami.

Sheriff Delas Armas: Tumutulong lang ako. Ako na napasama.

Cesar: Kung tumutulong ka, bakit mo kami hinihingan ng sampung libo. Eto si Jojo (Cyril) na testigo ko at narinig niya lahat ng pinag-usapan natin.

Sheriff Delas Armas: Wag ka masyadong maingay nag-hi-hearing si Judge baka marinig tayo.

Cesar: Eh ano kung marinig tayo. Gusto ko talaga kausapin ang Judge mo. Sheriff Delas Armas: Bakit? Ano sasabihin mo?

Cesar: Eh di sasabihin ko ang totoo. Na hinihingan mo kami ng pera. At sasabihin ko na dalawa yun order na sinasabi mo. Granted at Denied.

Sheriff Delas Armas: Oo dalawa yun. Pero si Judge ang mamimili kung ano pipirmahan nya.

Cesar: Ngayon lang ako naka-encounter ng ganyan. Alam ko isa-isa lang order. Kung ganyan kayo ka-corrupt dadalhin ko na lang to sa OCAD doon na lang kayo magpaliwanag.[9]

Cyril heard the whole conversation as he was with Cesar the whole time he was conversing with Sheriff Delas Armas.[10]

### *Respondents Position*

Respondent Sheriff Delas Armas vehemently denied the complainant's accusations against him contending that the allegations against him are purely fabricated coming from a litigant who obtained an unfavorable order from the court.

Respondent denied to have ever represented to Cesar that he could, in any way, influence the decision of the Honorable Judge. Moreover, respondent denied having asked Cesar money or otherwise in exchange for influencing the Court to change its unfavorable order to the complainant.

Respondent also stated that he does not know Cesar nor the complainant personally.  
[11]

In a Resolution dated February 10, 2014, the instant administrative matter was referred to the Executive Judge of RTC Pasig City for investigation, report and recommendation.  
[12]

### **Report and Recommendation**

In his Report and Recommendation,  
[13] Investigating Judge Danilo S. Cruz (Judge Cruz) recommended that respondent Sheriff Solminio B. Delas Armas be meted the penalty of suspension for one (1) month without salary with stern warning that repetition of the same or similar act of misconduct shall be dealt with more severely, and we quote:

Sheriff Solminio B. Delas Armas is guilty of simple misconduct. The undersigned notes that respondent has been in the service for twenty four (24) years and this is his first offense. He should be meted the penalty of suspension for one (1) month without salary with STERN WARNING that repetition of the same or similar act of misconduct shall be dealt with more severely.  
[14]

On February 28, 2017, a Memorandum  
[15] was passed by the Office of the Court Administrator finding respondent Delas Armas guilty of grave misconduct, we quote:

**RECOMMENDATION:** It is respectfully recommended for the consideration of the Honorable · [C]ourt that: respondent Delas Armas be found **GUILTY** of grave misconduct and be ordered **DISMISSED** from the service with **FORFEITURE** of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government including government-owned or controlled corporations.  
[16]

Hence, the case was transmitted to this court for review.

### **The Court's Ruling**

We agree and adopt the recommendation of the OCA in imposing on Sheriff Delas Armas the ultimate penalty of dismissal from the service for grave misconduct.

Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer.  
[17] It is intentional wrongdoing or deliberate violation of a rule of law or standard of

behavior and to constitute an administrative offense, the misconduct should relate to or be connected with the performance of the official functions and duties of a public officer.<sup>[18]</sup> In order to differentiate gross misconduct from simple misconduct, the elements of corruption, clear intent to violate the law, and not a mere error of judgment, or flagrant disregard of established rule, must be manifest in the former.<sup>[19]</sup>

In a long line of cases, this Court has held that solicitation or receiving money from litigants by court personnel constitutes grave misconduct.<sup>[20]</sup> Under Section 46 (A) of Revised Rules on Administrative Cases in the Civil Service, this is punishable by dismissal from service even for the first offense. While there are cases in which the Court has mitigated the imposable penalty for humanitarian reasons and other considerations such as length of service, acknowledgment of infractions, feelings of remorse, and family circumstances,<sup>[21]</sup> none of these is applicable to the case at hand. Hence, respondent's dismissal is proper.

After a judicious study of the case, the Court finds no reason to depart from the findings and recommendation of the Office of the Court Administrator that the evidence on record sufficiently demonstrate respondent Sheriff Delas Armas' culpability for grave misconduct. This being an administrative proceeding, the quantum of proof necessary for a finding of guilt is only substantial evidence, or such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.<sup>[22]</sup> This requirement has been met in this case.

In the instant case, it is clear that in the afternoon of February 29, 2012, respondent Sheriff Delas Armas contacted Cesar through a series of text messages regarding Arlene's Motion to Declare Defendants in Default in Civil Case No. 72902-PSG then pending before Branch 265, RTC of Pasig City. The series of text messages are as follows:

Respondent Sheriff Delas Armas: "Pwede ba tayo mag usap ngayon?  
Punta ka d2 opis"

Cesar Ambrosio: "Morong pa sir bka mga 5 pa mkabalik bka pde  
tomorrow a.m. Pnthan kta"

Respondent Sheriff Delas Armas: **Importante lang, regarding case  
mo**

Cesar: Ok pre habol nlang ako pilitin ko before 5 mkabalik

Respondent: Tawag ka Muna

Cesar: Teka sir mag start npo hearing

Respondent: Cge. (Emphasis supplied).

Consequently, when Cesar and respondent Delas Armas met the next day, it was there that respondent intimated to Cesar that they can have the Order in Civil Case No. 72902-PSG reversed in favor of the complainant for a fee, to wit: