

## EN BANC

[ A.M. No. 15-05-136-RTC, December 04, 2018 ]

**IN RE: SPECIAL REPORT ON THE ARREST OF ROGELIO M. SALAZAR, JR., SHERIFF IV, REGIONAL TRIAL COURT-OFFICE OF THE CLERK OF COURT, BOAC, MARINDUQUE, FOR VIOLATION OF REPUBLIC ACT NO. 9165,**

**A.M. NO. P-16-3450 (FORMERLY A.M. No. 15-12-379-RTC)**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS  
ROGELIO M. SALAZAR, JR., SHERIFF IV, REGIONAL TRIAL  
COURT-OFFICE OF THE CLERK OF COURT, BOAC, MARINDUQUE,  
RESPONDENT.**

### DECISION

#### PER CURIAM:

**No less than the Constitution mandates that a public office is a public trust** and public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

**The image of the court of justice is mirrored in the conduct, official and otherwise, of the personnel who work thereat. The conduct of a person serving the Judiciary must, *at all times*, be characterized by propriety and decorum *and above all else, be above suspicion so as to earn and keep the respect of the public for the Judiciary*. The Court would never countenance any conduct, act or omission on the part of all those in the administration of justice, which will violate the norm of public accountability *and diminish or even just tend to diminish the faith of the people in the Judiciary*.**<sup>[1]</sup> (Emphasis ours)

**No other office in the government service exacts a greater demand for moral righteousness and uprightness from an employee than the Judiciary.** The Court is mindful that any act of impropriety on the part of judicial officers and personnel, be they the highest or the lowest members of the work force, can greatly erode the people's confidence in our justice system. **Hence, it is the sacred duty of every worker in the Judiciary to maintain the good name and standing of the courts.** Every employee of the court should be an exemplar of integrity, uprightness, and honesty. **The Court will not hesitate to impose the ultimate penalty on those who have fallen short of their accountabilities.**<sup>[2]</sup> (Emphasis ours)

Before this Court are two consolidated administrative matters against Rogelio M. Salazar, Jr. (respondent), Sheriff IV, Regional Trial Court (RTC), Office of the Clerk of Court, Boac, Marinduque, for grave misconduct and conduct prejudicial to the best interest of the service.

### **Factual Antecedents**

These administrative matters stemmed from criminal cases filed against respondent for violation of Republic Act (RA) No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002". Specifically, Criminal Case No. 63-15 was filed for violation of Section 11 (Illegal Possession) in relation to Section 28 of RA 9165; while Criminal Case No. 62-15 was filed for violation of Section 15 (Prohibited Use) in relation to Section 28 of the same Act.<sup>[3]</sup> Also, I.S. No. XV-05-INV-15C-087 was filed against respondent for violation of Sections 5 (Illegal Sale) and 15 of the said Act but was, however, dismissed by the Provincial Prosecutor and now the subject of an automatic review before the Department of Justice (DOJ).<sup>[4]</sup>

The factual backdrop of the said cases are as follows:

On March 7, 2015, pursuant to Search Warrant No. 5043, the Philippine Drug Enforcement Agency (PDEA) and Philippine National Police (PNP) searched respondent's property, which resulted in the confiscation of seven plastic sachets, later on found to be containing a total of 9.4993 grams of methamphetamine hydrochloride, otherwise known as "*shabu*". Consequently, respondent was arrested and detained. The confirmatory test conducted on respondent's urine sample likewise yielded positive of *shabu*. The Provincial Prosecutor also noted that respondent admitted the use of dangerous drugs.<sup>[5]</sup>

On April 21, 2015, Criminal Case Nos. 63-15 and 62-15 were filed. No bail was recommended for the respondent's release.<sup>[6]</sup> Meanwhile, as a result of an alleged buy-bust operation, I.S. No. XV-05-INV-15C-087 was also filed.<sup>[7]</sup>

Documents relative to Criminal Case No. 63-15 were then forwarded to the Office of Administrative Services (OAS), Office of the Court Administrator (OCA). Pursuant to the Court *En Banc* Resolution dated March 12, 1981, which authorized the OCA to initiate *motu proprio* the filing of administrative proceedings against judges and/or employees of the inferior courts who have been convicted and/or charged before the Sandiganbayan or the courts, the OCA charged respondent with grave misconduct and conduct prejudicial to the best interest of the service, which case was then docketed as A.M. No. 15-12-379-RTC.<sup>[8]</sup>

In a Report<sup>[9]</sup> dated November 6, 2015 in the said administrative matter, the OCA found respondent's acts to constitute grave misconduct and conduct prejudicial to the best interest of the service. Hence, it recommended that the case be re-docketed as a regular administrative matter; that respondent be ordered suspended from service pending the outcome of the criminal case or until further order from the Court; and, that respondent be ordered to comment on the administrative charge. The Court, in its April 11, 2016 Resolution,<sup>[10]</sup> adopted and approved the OCA's findings and recommendation. Pursuant to the said April 11, 2016 Resolution, the case was re-docketed as A.M. No. P-16-3450.

Meanwhile, P/Supt. Lorenzo Junio Holanday, Jr., Provincial Director, Marinduque Police Provincial Office, informed the Court, through a letter<sup>[11]</sup> dated March 25, 2015, of the Special Report on respondent's arrest and the criminal cases filed against the latter for violations of RA 9615. This brought about A.M. No. 15-05-136-RTC.

In a Report<sup>[12]</sup> dated January 28, 2016 in A.M. No. 15-05-136-RTC, the OCA likewise found respondent's acts to be constitutive of grave misconduct and conduct prejudicial to the best interest of the service.

In the main, respondent's separate Comments<sup>[13]</sup> in the instant administrative matters constitute denial of the charges against him in the criminal cases and allegations of evidence-planting and frame-up.

Upon recommendation of the OCA, the Court, in its April 11, 2016 Resolution,<sup>[14]</sup> suspended respondent from service pending the final outcome of the criminal case filed against him or until further order of this Court considering that the evidence of guilt is *prima facie* strong.

In a letter<sup>[15]</sup> dated August 11, 2016, respondent requested that the instant administrative cases be consolidated and that the cases be submitted for resolution based on the pleadings filed.

On April 7, 2017, the OCA issued a Memorandum<sup>[16]</sup> regarding A.M. No. 15-05-136-RTC, with the following recommendations:

1. **A.M. No. P-16-3450** xxx and **A.M. No.15-05-136-RTC** be **CONSOLIDATED**;

2. Respondent Rogelio M. Salazar, Jr., Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Boac, Marinduque be found **GUILTY** in both A.M. No. P-16-3450 and A.M. No. 15-05-136-RTC of grave misconduct and conduct prejudicial to the best interest of the service pursuant to Sections 46(A)(3) and (B)(8), respectively, under Rule 10 of Revised Rules for Administrative Cases in the Civil Service; and

3. Respondent Salazar, Jr. be meted out the penalty of **DISMISSAL** from the service with forfeiture of all benefits, except accrued leave credits, if any, and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

In its Memorandum, the OCA emphasized that only substantial evidence is needed in administrative proceedings; that administrative liability is separate and distinct from criminal liability; and that in administrative proceedings, the Court is not bound by technical rules of procedure and evidence. The OCA also noted that the instant administrative cases are not intended to preempt the DOJ's review of the dismissal of I.S. No. XV-05-INV-15C-087 nor to determine respondent's guilt in Criminal Case Nos. 62-15 and 63-15.<sup>[17]</sup>

The OCA found that the evidence on record, which include, the undisputed fact that respondent was found to be positive for shabu in the drug test following his arrest, and that the finding of probable cause in the criminal charges against him constitute more than substantial evidence to hold respondent administratively liable for grave misconduct and conduct prejudicial to the best interest of service. The OCA grounded its conclusion on Civil Service Memorandum Circular No. 13, series of 2010, which provides that any official or employee found positive for use of dangerous drugs shall be subjected to disciplinary/administrative proceedings with a penalty of dismissal from the service for the first offense pursuant to Section 46(19) of Book V of Executive Order No. 292 and Section 22(c) of its Omnibus Rules.<sup>[18]</sup>

On even date, the OCA also issued a Memorandum<sup>[19]</sup> as regards A.M. No. P-16-3450, with the same findings and recommendation as in A.M. No. 15-05-136-RTC above-stated.

In a letter<sup>[20]</sup> dated August 25, 2017, respondent manifested to this Court that on May 4, 2017, Judge-Designate Dennis R. Pastrana (Judge Pastrana) of the RTC of Boac, Marinduque, granted his Motion to Quash Search Warrant with Motion to Suppress Evidence for lack of probable cause and non-conformity with established constitutional rules and statutory guidelines in the implementation of such search warrant.<sup>[21]</sup> In the said May 4, 2017 Order, Judge Pastrana found that the officers who applied for the search warrant committed deliberate falsehoods to obtain the same. Thus Judge Pastrana ruled that due to the nullity of the search warrant, the search conducted on its authority is likewise null and void and with the inadmissibility of the drugs seized from respondent's home, there is no more evidence to support his conviction.

Respondent further manifested that his motion to dismiss the criminal cases against him was also granted by the RTC on August 18, 2017. In the said August 18, 2017 Order,<sup>[22]</sup> Judge Pastrana added that even the urine test conducted on the respondent, having been done as a result of an arrest occasioned by the search is also inadmissible like the seized drugs for being fruits of the poisonous tree.

Thus, in his August 25, 2017 letter,<sup>[23]</sup> respondent requested for the dismissal of the instant administrative cases against him in view of the dismissal of the criminal cases, revocation of his suspension order, and payment of his back salaries and other benefits withheld during his suspension and detention.

### **The Issue**

The pivotal issue for this Court's resolution is whether or not respondent should be held administratively liable despite dismissal of the related criminal cases against him.

### **This Court's Ruling**

Respondent was charged with illegal sale, possession, and use of illegal drugs. Respondent, however, pounds on the fact that the criminal cases against him from which these administrative cases rooted, had already been dismissed by virtue of the quashal of the search warrant and the suppression of the evidence taken by virtue of the said warrant. It is the respondent's position that since the evidence

obtained through such search warrant were declared illegal and inadmissible by the RTC, the same cannot likewise be used in the instant administrative cases. Hence, respondent argued that the administrative cases against him has no leg to stand on and must be dismissed.

*We do not agree.*

At the outset, We find it necessary to first place the instant case in its proper context.

This is an administrative case against a Sheriff of the court charged with the administrative offenses of grave misconduct and conduct prejudicial to the best interest of the service as an offshoot of a prior arrest and criminal charges for violations of RA 9165 or the Comprehensive Dangerous Drugs Act of 2002 against said officer.

Owing to the administrative nature of the instant case, several important considerations must be taken into serious account: **first**, the finding of administrative guilt is independent of the results of the criminal charges against the Sheriff; **second**, the Sheriff stands scrutiny and treated not as an accused in a criminal case, but as a respondent court officer; **third**, the Supreme Court, in taking cognizance of this administrative case, acts not as a prosecutor, but as the administrative superior specifically tasked to discipline its Members and personnel; **fourth**, the quantum of proof required for a finding of administrative guilt remains to be substantial evidence; and **fifth**, the paramount interest sought to be protected in an administrative case is the preservation of the Constitutional mandate that a public office is a public trust.

Well settled is the rule that an absolution from a criminal charge is not a bar to an administrative prosecution or vice-versa.<sup>[24]</sup> Evidence to support a conviction in a criminal case is not necessary, and the dismissal of the criminal case against the respondent is not a ground for the dismissal of the administrative case. It bears stressing that a criminal case is different from an administrative case and each must be disposed of according to the facts and the law applicable to each case.<sup>[25]</sup> Thus, the dismissal of Criminal Case Nos. 62-15 and 63-15 does not automatically entail the dismissal of the instant administrative actions.

The fact that the pieces of evidence obtained from the voided search were declared inadmissible for being fruits of the poisonous tree will not result to the outright dismissal of the administrative cases at bar.

It is necessary to emphasize that to sustain a finding of administrative culpability, only substantial evidence is required, that is, more than a mere scintilla of relevant evidence as a reasonable mind might accept as adequate to support a conclusion,<sup>[26]</sup> even if other minds equally reasonable might conceivably opine otherwise.<sup>[27]</sup>

In the case of *Ombudsman Marcelo v. Bungubung and CA*,<sup>[28]</sup> this Court explained:

xxx The standard of substantial evidence is satisfied when there is **reasonable ground to believe that respondent is responsible for the misconduct complained of**, even if such evidence might not be overwhelming or even preponderant. While substantial evidence does not