

EN BANC

[A.M. No. P-09-2705, June 16, 2015]

**EDMAR D. GARCISO, COMPLAINANT, VS. ARVIN A. OCA,
PROCESS SERVER, MUNICIPAL TRIAL COURT IN CITIES, BRANCH
1, CEBU CITY, RESPONDENT.**

[A.M. No. P-09-2737]

**JUDGE ENRIQUETA L. BELARMINO, COMPLAINANT, VS. ARVIN A.
OCA, PROCESS SERVER, MUNICIPAL TRIAL COURT IN CITIES,
BRANCH 1, CEBU CITY, RESPONDENT.**

DECISION

PER CURIAM:

These administrative matters sprang from the entrapment operation conducted by the National Bureau of Investigation (NBI) based on the complaint-affidavit dated September 4, 2008^[1] filed by Edmar D. Garciso (Garciso) denouncing the extortion committed against him by respondent Arvin A. Oca, Process Server of the Municipal Trial Court in Cities, Branch 1, in Cebu City.

In the ensuing report dated September 5, 2008 on the entrapment operation, addressed to the Deputy Ombudsman for the Visayas, Hon. Pelagio Apostol, the NBI summarized the following factual findings, *viz.*:

Our investigation disclosed that on August 31, 2008, Complainant received a text message from Subject, a Process Server assigned at Municipal Trial Court in Cities (MTCC), Cebu City, seeking an urgent meeting as he (OCA) has a pressing concern to reveal. Anxious of what was it all about, GARCISO met OCA at the parking area of Gaisano Tabunok Mall where the former was informed by the latter that there was a pending Application for Search Warrant for violation of R.A. 9165 filed by PDEA 7 awaiting approval at the Court of a certain "Judge BELARMINO" of RTC Cebu City. In their conversation, OCA vouched that he could cause the denial of the application by the Judge or the withdrawal or suppression of the application by the PDEA because he has a friend working in the said court and that the PDEA officer applicant is his friend, all for a fee of P150,000. Further, that failure on his part to settle the matter would eventually lead to the execution of the Search Warrant by PDEA Agents and his arrest as well.

Complainant was troubled upon knowing this especially on the prospect that he might be arrested anytime. As days progressed, Subject heightened the pressure on the Complainant thru text messages. On September 3, 2008, at around 1:00 o'clock in the afternoon,

Complainant, upon instruction of Subject, met again at San Carlos Heights in Quiot, Pardo, Cebu City where he (GARCISO) was shown a four page document with a heading "Application for Search Warrant". Believing the existence of the same to be a fact plus the continued intimidation by Subject created fear, anxiety, and mental distress upon the Complainant that he finally sought the assistance of Bureau.

In an entrapment operation conducted on September 4, 2008 at round 2:45 o'clock in the afternoon at the vicinity of Provincial Capitol Building, Subject was arrested after he received from GARCISO the demanded amount laced with fluorescent powder. Recovered from his person was the marked bills and his Nokia Mobile Phone containing the txt (sic) messages he received from the Complainant and his replies thereof (sic) immediately prior to his arrest.

Subject was found positive for fluorescent powder on his hands. A certification obtained from the sala of Hon. Judge ENRIQUITA BELARMINO, Presiding Judge Branch 57, RTC, Cebu City disclosed that there is no pending application for Search Warrant filed before her sala against Subject. Further, in reply to the request from the Office of PDEA 7 Officer in Charge RANDY RAMBOA PEDROSO, it was also officially certified that there is no pending application for Search Warrant initiated by his Office and filed before any court against Complainant.

In view of the foregoing, it is respectfully recommended that Subject be criminally prosecuted for **ROBBERY EXTORTION**, defined and penalized under Art. 294 of the Revised Penal Code and violation of R.A. 6713 otherwise known as "**The Code of Conduct and Ethical Standard for Public Employees**", respectively. Further, that he be likewise administratively charge (sic) in connection with this case.

In support of our recommendation, we are attaching herewith the following documentary and testimonial evidence, to wit:

1. Affidavit Complaint of EDMAR GARCISO y DADULA;
2. Supplementary Complaint Affidavit of EDMAR GARCISO y DADULA
3. Affidavit of SILVERIA JAKOSALEM DE GARCISO y INSO;
4. Affidavit of NBI Agent BERNARD DE LA CRUZ;
5. Joint Affidavit of Arrest of NBI Agents ARNEL E. PURA, et(.) al;
6. NBI Physics Report No. 2008-P-4609;
7. NBI Physics Report No. 2008-P-4709;
8. Certification issued by Hon. Judge ENRIQUITA L. BELARMINO RTC, Branch 57, Cebu City dated September

5, 2008;

9. Certification issued by RANDY R. PEDROSO, PDEA 7, Cebu City;
10. Transcript of Messages sent to ARVIN OCA by Complainant EDMAR GARCISO y DADULA consisting of two (2) pages;
11. Transcript of Messages sent to EDMAR GARCISO y DADULA by ARVIN OCA;
12. Booking Sheet and Arrest Report;
13. One (1) pc. NOKIA Cellular Phone with the following description Model 3120, IC:661U-RH19, IMEI No.: 356649/00/346309/2;
14. two (2) pieces of Sim Pack namely SMART Buddy (LXJO903) and GLOBE (3073340711192090);
15. Employment Identification Card of Subject;

Early action taken hereon is highly appreciated.^[2]

The Office of the Ombudsman (Visayas) referred the matter to the Office of the Court Administrator (OCA) for appropriate action because it involved a trial court employee under the exclusive administrative supervision of the Supreme Court.^[3] The matter was initially docketed as OCA I.P.I. No. 08-2955-P.

On September 12, 2008, the OCA received the letter dated September 5, 2008 from Judge Enriqueta L. Belarmino, Presiding Judge of Branch 57 of the Regional Trial Court in Cebu City (RTC),^[4] charging the respondent with extortion and grave misconduct in relation to Criminal Case No. CBU-84275, a criminal prosecution for *estafa* that had been filed by the Graft Investigation and Prosecution Officer of the Office of the Ombudsman (Visayas) on September 5, 2008.^[5] Criminal Case No. CBU-84275 involved the same incident subject of the September 4, 2008 NBI entrapment of the respondent. The letter was docketed as OCA I.P.I. No.08-2998-P.

In the meantime, the respondent was separately required to submit his comments on the administrative complaints brought against him. In his comment dated March 16, 2009 filed in OCA I.P.I. No.08-2998-P,^[6] and in his comment dated May 20, 2009 submitted in OCA I.P.I. No. 08-2955-P,^[7] he denied the accusations, stating that Garciso had orchestrated the entrapment; that he and Garciso were more than casual acquaintances because they had been introduced to each other by a common friend, Alson Cabrillos; that it had been Garciso who was eager to meet him on the day of the entrapment, even setting the time and place of the meeting; that he could not have met with Garciso at 3:00 p.m. of September 1, 2008 because he was then serving summons at Holy Cross, Basak, Cebu City relative to Civil Case No. R-54060; and that he dropped by at Gaisano Fiesta Mall to meet Garciso on his way home only around 5:20 p.m. of September 1, 2008.

The respondent explained that during their meeting on September 1, 2008, Garciso requested his assistance to secure from the National Statistics Office certified copies of the birth certificates of Marianne Mae, Garciso's illegitimate child with Silveria Jakosalem, and of Shaina Marijoh Jakosalem, Silveria's legitimate child with Raul Mujeres; that he also learned then that Garciso had a serious conflict with Cabrillos' friend, one Micmic Cortes, whom he owed P60,000.00 that he was being required to pay within a week; that Garciso borrowed and used his phone to send text messages to Garciso's phone and vice versa; and that it was Garciso who had secured a fabricated search warrant from his brother, a police officer, on the belief that this could help him obtain money from a financier.

Considering that the facts and issues were the same, the OCA recommended the consolidation of OCA I.P.I. No. 08-2955-P with OCA I.P.I. No.08-2998-P, and their re-docketing as regular administrative matters.^[8] The cases were then referred to Executive Judge Meinrado P. Paredes of the RTC for investigation, report and recommendation.^[9]

On May 14, 2010, Executive Judge Paredes submitted his Investigation Report and Recommendation,^[10] whereby he recommended the dismissal of the respondent from the service with forfeiture of all the benefits he was expected to receive.^[11] Executive Judge Paredes concluded as follows:

Although the quantum of proof in administrative cases is only substantial evidence, in the instant case there is proof beyond reasonable doubt that respondent Oca is liable for gross misconduct. He was arrested in an entrapment operation for robbery/extortion conducted by the NBI-7. Although the ombudsman case for robbery/extortion was provisionally dismissed because the private complainant failed to appear, the fact remains that an NBI Agent who led the entrapment operation testified against the respondent. His testimony was clear, frank, honest and convincing. He had no ill motive to testify against the respondent. Complainant Honorable Judge Enriqueta L. Belarmino also testified.

Respondent Oca took advantage of his position as a court employee. He made complainant believed (sic) that he had friends in the RTC, Branch 57 and in the PDEA. He also made complainant Garciso believed (sic) that he has influence over the judge and the court personnel of RTC, Branch 57 and that he can influence the applicant from PDEA to withdraw the application for search warrant. He also made complainant Garciso believed (sic) that there was a pending search warrant for Violation of the Dangerous Drugs Law against the latter.

The truth of the matter is that the PDEA did not file an application for the issuance of the search warrant for Violation of the Dangerous Drugs Law (RA9165). It is not also true that he could influence the judge and the court personnel in withholding the issuance of the search warrant. In fact, the Presiding Judge of RTC, Branch 57, did not know respondent Oca before the instant Administrative case was served.

This incident caused the Presiding Judge of RTC 57 so much pain and