

EN BANC

[A.M. No. P-10-2788, January 18, 2011]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT,
CLAUDIO M. LOPEZ, PROCESS SERVER, MUNICIPAL TRIAL
COURT, SUDIPEN, LA UNION RESPONDENT.**

DECISION

PER CURIAM:

In an administrative case, the quantum of proof required is only substantial evidence. The dismissal of the criminal case against the respondent in an administrative case is not a ground for the dismissal of the administrative case.

An Information dated 12 January 2004 was filed against respondent Claudio M. Lopez (respondent), Process Server of the Municipal Trial Court of Sudipen, La Union, for violation of Section 11 of Republic Act No. 9165 (RA 9165), otherwise known as the Dangerous Drugs Act, as follows:

That on or about the 21st day of October 2003, in the Municipality of Sudipen, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously keep and possess in his custody and control Seven Hundred Ninety Point Six (790.6) grams of dried marijuana fruiting tops, without first securing the necessary permit or authority from the government agency.^[1]

Consonant with the En Banc Resolution dated 12 March 1981 authorizing the Office of the Court Administrator (OCA) to initiate *motu proprio* the filing of administrative complaint against judges and/or employees of the inferior courts who have been convicted and/or charged before the Sandiganbayan or the courts, the OCA, in its Report dated 17 February 2009,^[2] recommended the filing of an administrative complaint against respondent for Grave Misconduct and Conduct Unbecoming a Government Employee. The Court, in its Resolution of 18 March 2009,^[3] approved the OCA's recommendation and required respondent to comment on the complaint.

On 29 April 2009, respondent submitted a one-page answer/comment^[4] alleging that a criminal case docketed as Criminal Case No. 3064 for violation of RA 9165 was pending before the Regional Trial Court, Branch 34, Balaoan, La Union (RTC-Br. 34) and that from the evidence presented, it was clear that the prosecution failed to prove its case and that the case "might" be dismissed. Respondent prayed that the instant complaint be dismissed.

On 17 June 2009, this Court issued a Resolution ^[5] noting respondent's

answer/comment and referred the administrative matter to the OCA for designation of an investigating judge to conduct an investigation.

Judge Ferdinand A. Fe (Investigating Judge), Acting Presiding Judge of the RTC-Br. 34, was designated investigating judge to conduct the investigation and thereafter submit a report and recommendation on the administrative matter.^[6]

During the investigation, respondent informed the Investigating Judge that he was adopting the demurrer to evidence he earlier filed in Criminal Case No. 3064 and offered the same as evidence in this administrative case. He claimed the prosecution failed to prove its case. But since this is an administrative case, the Investigating Judge was of the view that only substantial evidence is required and not proof beyond reasonable doubt.

From the evidence adduced by the prosecution in the criminal case, the Investigating Judge found that by virtue of a search warrant issued by the presiding judge of the Municipal Circuit Trial Court of Bannayoyo-Lidlidda-San Emilio, Ilocos Sur, police officers searched the boarding house which respondent rented. Respondent was not in his boarding house when the search team and the barangay officials arrived. The police officers presented the search warrant to respondent's live-in partner, Babes Cañedo (Cañedo). One block of dried marijuana fruiting tops weighing 790.6 grams wrapped in a newspaper and plastic bag was recovered inside the room and under respondent's bed. When respondent arrived, the police officers confronted him but respondent denied ownership of the dried marijuana fruiting tops. Respondent likewise refused to sign the Certification of Orderly Search but Cañedo and Barangay Captain Ronnie A. Guzman and Barangay Kagawad Charito Bayan signed the certification.

The confiscated items were brought to the Sudipen Police Station. After preliminary investigation, respondent was charged with violation of RA 9165.

In his demurrer to evidence which he adopted as evidence in this administrative case, respondent maintained that the presiding judge who issued the search warrant had no territorial jurisdiction over Sudipen, La Union, the place where it was enforced and hence, the items seized by virtue thereof were inadmissible in evidence. He likewise argued that the police officers who enforced the search warrant violated Rule 126 concerning the presence of witnesses and the accused during the search.

The Investigating Judge believed that the issues on the legality of the issuance of the search warrant and violation of Rule 126 should be threshed out in the criminal case and not in the instant administrative case. The Investigating Judge observed that since the place that was searched was the room rented by respondent, the lawful occupant is the respondent and not Erlinda Estrada, the owner of the house. Moreover, the presence of the lawful occupant may be dispensed with if there is any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.

From the evidence adduced and the admission of respondent in his demurrer to evidence which he adopted in this administrative case, the Investigating Judge concluded that respondent kept in his custody and control 790.6 grams of dried marijuana fruiting tops without first securing the necessary permit or authority from