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[A.M. No. P-09-2660, November 29, 2011]

**FRANCISCO C. TAGUINOD, COMPLAINANT, VS. DEPUTY SHERIFF
ROLANDO TOMAS, REGIONAL TRIAL COURT, BRANCH 21,
SANTIAGO CITY, RESPONDENT.**

D E C I S I O N

PER CURIAM:

This administrative matter is an offshoot of our ruling in *Taguinod v. Madrid*,^[1] which, aside from holding the judge in the Regional Trial Court of Santiago City, Branch 21 (Branch 21), administratively liable for violating Section 2 of Presidential Decree No. 1079^[2] (PD 1079) on the publication of judicial notices, also ordered the investigation of that court's deputy sheriff, respondent Rolando Tomas (respondent), for "possible violation of Section 5" of PD 1079.

Complainant Francisco Taguinod (Taguinod), publisher and editor of *City Star*, a newspaper locally published in Santiago City, and another individual^[3] initiated in *Taguinod v. Madrid* an administrative complaint against Branch 21's presiding judge, Fe Albano Madrid (Madrid), for irregularities in the allocation of judicial notices for publication by local publishers. In the course of the investigation by the Office of the Court Administrator (OCA), Taguinod presented documentary evidence showing receipt by respondent of sums of money from March to November 1996 in exchange for *City Star's* publication of judicial notices. At that time, *City Star* was not yet accredited by Branch 21. As respondent was not impleaded as party in *Taguinod v. Madrid*, the OCA recommended respondent's separate investigation. We approved the recommendation, thus:

The Court finds merit in the OCA's recommendation to investigate Deputy Sheriff Tomas. The evidence presented by complainant Taguinod warrants such investigation for possible violation of Section 5 of PD 1079 which prohibits any court employee from "directly or indirectly demand[ing] of or receiv[ing] from" publishers, editor, media personnel or any other person "money, commission or gifts of any kind in consideration of any publication x x x."^[4]

In his comment to the charge, respondent readily admitted receiving payments from Taguinod in exchange for *City Star's* publication of judicial notices. By way of defense, respondent qualified that he "never demanded any money" from Taguinod:

[I]n the process of causing publication through the CITY STAR, Mr. Taguinod confided to me that he is giving discount in the form of rebates

to person or persons coming in as patrons or clients. In my case, he gave it in checks. I wanted to refuse but he assured me it is SOP in their line of business. I want to stress and assert, therefore, that I never demanded any money or any rebate from Mr. Taguinod. x x x x^[5]

The OCA investigator^[6] found respondent liable for violating Section 5 of PD 1079 and Section 2,^[7] Canon 1 of the Code of Conduct for Court Personnel (Code of Conduct) and recommended respondent's suspension from service for six months. Further, the investigator recommended the criminal investigation of respondent for possible violation of Republic Act No. 3019 (RA 3019).

In its evaluation of the investigator's report, the OCA sustained the former's findings, taking into account respondent's admission of receipt of "kickbacks" from Taguinod. As an alternative basis for respondent's liability, the OCA cites Section 2(e),^[8] Canon III of the Code of Conduct. The OCA recommends holding respondent liable for Grave Misconduct and Dishonesty for which he should be suspended from service for the period the investigator recommended, that is, six months.

We approve the OCA's recommendation finding respondent liable for grave misconduct and dishonesty. We reject, however, the OCA's recommended penalty and order respondent's dismissal from service.

Section 5 of PD 1079, which provides -

No publishers, editor, media personnel or any other person shall directly or indirectly offer or give money, commission or gift of any kind to executive judges of the court of first instance or any court employee in consideration of the award of legal and judicial notices and similar announcements defined in section 1 hereof. Neither shall the latter directly or indirectly demand of or receive from the former money, commission or gifts of any kind in consideration of any publication herein referred to. (Italicization and underscoring supplied)

regulates the conduct of both the members of local media and lower court personnel on the awarding of judicial notices for publication. Just as the former are prohibited from "offer[ing] or giv[ing] money, commission or gift of any kind" to lower court judges and personnel for the privilege of publishing judicial notices, so are the latter barred from "directly or indirectly demand[ing] of or receiv[ing] x x x money, commission or gifts of any kind" for the same purpose. The scope of prohibition on the part of the court personnel is broad, covering both demand or receipt of pay-offs.

Here, the Court is spared from having to evaluate factual allegations on the question whether respondent, as deputy sheriff of Branch 21, violated Section 5 of PD 1079 because respondent admitted receiving pay-offs from Taguinod every time the City Star, the paper published by Taguinod, is awarded a judicial notice from Branch 21 for publication. Respondent's admission corroborates the documentary evidence Taguinod presented consisting of photocopies of 10 checks Taguinod issued, payable to respondent or "cash," for a total amount of P24,905.60 which respondent

pocketed.

Respondent's defense that he "never demanded any money or any rebate" from Taguinod does not spare him from liability. Section 5 not only prohibits local court personnel from "demanding" pay-offs, it also bars receipt of such pay-offs. Respondent will take himself out of the ambit of Section 5 only if he did neither.

By accepting pay-offs from Taguinod, respondent also violated Section 2(e), Canon III of the Code of Conduct, mandating that Court personnel shall not –

Solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties. (Emphasis supplied)

From March to November, 1996 when City Star published judicial notices from Branch 21, for which respondent accepted 10 checks from Taguinod, respondent controlled the distribution of Branch 21's judicial notices among Santiago City's publishers because Madrid delegated this task to respondent (in violation of Section 2 of PD 1079 requiring distribution of notices by raffle).^[9] It was in Taguinod's interest, therefore, to give "discounts" to respondent to influence respondent to keep assigning judicial notices to City Star. The 10 checks Taguinod issued and respondent received speak volumes of this convenient, albeit unethical, arrangement. Section 2 (e), Canon III of the Code of Conduct was crafted precisely to punish court personnel who engage in such practices.

Respondent's violation of Section 5 of PD 1079 and Section 2(e), Canon III of the Code of Conduct constitutes grave misconduct or corrupt conduct in flagrant disregard of well-known legal rules.^[10] Respondent, who entered the judiciary in 1996, ought to know these provisions; his multiple transactions with Taguinod show flagrant disregard of their proscriptions.

The administrative offense of dishonesty connotes "x x x untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle x x x."^[11] We quote with approval the OCA investigator's explanation to hold respondent liable for this offense –

The acts committed by Sheriff Tomas were clearly acts of dishonesty. If he had been a little scrupulous, he should have given the discounts or rebates to the persons who paid the fees, the mortgagees and the other parties who had to have notices or processes published in accordance with the Rules. By keeping them for himself and thereby profiting from them, he had committed a clear case of dishonesty.^[12]

Indeed, respondent has no business receiving any amount, for whatever purpose, from Santiago City's newspaper publishers for the publication of judicial notices from Branch 21. Basic notions of propriety should have alerted respondent of the inherently unethical nature of such transaction. Instead of refusing the pay-offs, he