

EN BANC

**[A.M. No. P-09-2685 [OCA-IPI No. 08-2839-P],
September 03, 2009]**

**P/SUPT. RENE MACALING ORBE, COMPLAINANT, VS. MARCOS U.
DIGANDANG, PROCESS SERVER, REGIONAL TRIAL COURT,
BRANCH 14, COTABATO CITY, RESPONDENT.**

D E C I S I O N

PER CURIAM:

The issue for resolution is whether respondent Marcos U. Digandang, Process Server of the Regional Trial Court, Branch 14 of Cotabato City, is guilty of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service for illegally releasing the accused in the case of *People of the Philippines v. Ombudsman Indag*.^[1]

On February 14, 2008, the operatives of the Philippine Drug Enforcement Agency-Autonomous Region of Muslim Mindanao (PDEA-ARMM) arrested Abdulsalam Indag and Baida Manabilang for alleged violation of Sections 5, 11 and 15 of Republic Act (R.A.) No. 9165 or The Dangerous Drugs Act of 2002, and were thus committed to the provincial jail.

On February 15, 2008, the accused were released from the custody of the Officer-in-Charge (OIC) Provincial Warden, Laman P. Malikol, on the basis of the Custody Receipt signed by the respondent.

In his complaint, Police Superintendent Rene Macaling Orbe, Acting Regional Director of PDEA-ARMM, alleges that the release was illegal because the accused were charged with a non-bailable offense.

Respondent admits in his Comment that the accused were his relatives and that he interceded for their release because they allegedly needed medical attention. After their medical check up, they were immediately brought back to their detention cell. He also claims that he did not file a motion for temporary release, since he could not secure the services of a lawyer, it being a Friday and it was already past 3:00 p.m.

Laman P. Malikol, the OIC-Provincial Warden, likewise admitted that he temporarily relinquished custody over the accused to herein respondent for humanitarian reasons.

In its Report dated September 19, 2008, the Office of the Court Administrator (OCA) found respondent guilty as charged and recommended his dismissal from service effective immediately with forfeiture of all benefits, except accrued leave credits, with prejudice to his re-employment in any branch or instrumentality of the government, including government- owned or controlled corporation. The case against the OIC Provincial Warden was recommended to be forwarded to the