

THIRD DIVISION

[A.M. NO. P-06-2134 [FORMERLY OCA I.P.I. NO. 05-2180-P], August 09, 2006]

**FRANCISCO D. MARTILLANO, COMPLAINANT VS. SHERIFF
MANUEL L. ARIMADO, REGIONAL TRIAL COURT, BRANCH 4,
LEGASPI CITY, RESPONDENT.**

RESOLUTION

TINGA, J.:

Francisco Martillano (Martillano) is the respondent in I.S. No. 04-0531 for violation of Section 3(b) in relation to Sections 2(g) and 4 of Republic Act No. 9287, filed against him by a certain Emerito Zamora with the Office of the City Prosecutor of Legaspi City. During the preliminary investigation of the case, Martillano submitted a Counter Affidavit^[1] in which he alleged as a defense that his liability for the offense had already been settled by his payment of a fine in the amount of P2,500.00 which he handed to respondent Sheriff Manuel Arimado (Sheriff Arimado). Finding probable cause against Martillano, Assistant City Prosecutor Solon Sison (Prosecutor Sison) recommended the filing of an Information against him. Prosecutor Sison, however, advised Martillano to "initiate the appropriate action against certain individuals who may have exercised on him deceit, or otherwise inflicted on him financial loss."^[2]

The Information against Martillano was docketed as Criminal Case No. 110479 in the *sala* of Judge Henry Basilia (Judge Basilia) of the Regional Trial Court (RTC) of Legaspi City, Branch 3. Taking Prosecutor Sison's advise, Judge Basilia referred the matter to Sheriff Arimado's immediate superior, Judge Edgar Armes (Judge Armes), who required Sheriff Arimado to comment on the allegations of Martillano. Upon Sheriff Arimado's compliance, Judge Armes returned to Judge Basilia his First Indorsement. The latter, in turn, forwarded the matter to the Office of the Court Administrator (OCA) for the possible institution of an administrative case against Sheriff Arimado. Thus, with his Counter Affidavit filed in I.S. No. 4-0531, Martillano stands as the complainant in the instant administrative case.

Martillano alleges that Sheriff Arimado received from him the amount of P2,500.00 upon the latter's representation that he will assist them in settling I.S. No. 04-0531. Sheriff Arimado allegedly told Martillano that he was able to persuade and convince Prosecutor Sison not to prosecute the case in exchange for Martillano's admission of his guilt and payment of a fine of P2,500.00. However, in an Order dated September 24, 2004, Martillano learned that the case was dismissed for lack of probable cause and not because he paid the appropriate fine.^[3]

In his Compliance^[4] dated November 26, 2004, which he adopts^[5] as his comment to the present case, Sheriff Arimado avers that it was Martillano's wife and two (2) companions who sought his help in looking for counsel to assist them in the case

against Martillano. Martillano's wife allegedly left with him the amount of P2,500.00 as advance payment for said counsel. The following day, however, Martillano's wife returned to inform him that they no longer needed counsel as the case had already been dismissed. Sheriff Arimado told the supposed counsel about the new development but the latter replied that a case would still be filed with the Municipal Trial Court in Cities because the penalty imposable is only fine. Sheriff Arimado claims that he relayed this message to Martillano. He adds that his only intention was to extend assistance to Martillano and that he would return the money to the latter upon "retrieval."

The case was referred to Hon. Romeo S. Dañas, Executive Judge, RTC of Legaspi City, for investigation, report and recommendation.^[6]

After due proceedings in which both parties were heard, the case was submitted for resolution.^[7] Executive Judge Avelino V. Rodenas, Jr. issued a Resolution^[8] dated June 13, 2006, finding that although Sheriff Arimado is liable for simple misconduct, the case has been rendered moot and academic because of Martillano's lack of interest in pursuing the case. However, since Sheriff Arimado admits that he received money from Martillano, Judge Rodenas recommends that Sheriff Arimado be reprimanded.

It should be stated at the outset that Martillano's lack of interest in pursuing this case does not affect the Court's jurisdiction, under Section 6, Article VIII of the Constitution, to investigate and decide complaints against erring employees of the judiciary.

The fact that Sheriff Arimado received P2,500.00 from Martillano's wife^[9] is not in dispute. The only variance in the testimonies of the parties is that while Martillano claims that the money was given to Sheriff Arimado supposedly to pay for the fine imposed against Martillano, Sheriff Arimado claims that it was intended for the lawyer whose services he was supposed to procure to assist Martillano.

This difference, however, is irrelevant because Sheriff Arimado was unauthorized to receive money from a litigant for whatever purpose especially since he was the sheriff in the *sala* of Judge Armes before whom Martillano's case was then pending. Sheriff Arimado's act is a misconduct defined as "any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of the parties or to the right determination of the cause."^[10]

In *Office of the Court Administrator v. Duque*,^[11] we held respondent liable for simple misconduct in view of the absence of evidence that she was moved by bad faith, dishonesty or hatred when she received the amount of P120,000.00 from a litigant without authority. Likewise, the Executive Judge did not mention and we do not glean any dishonest or fraudulent motive in Sheriff Arimado's action.

Sec. 52(B)(2) of the Uniform Rules on Administrative Cases in the Civil Service penalizes simple misconduct with suspension ranging from one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense. This is not Sheriff Arimado's first offense. He admits that he was previously suspended in two (2) administrative cases filed against him.^[12]