

## **EN BANC**

**[ A.M. No. 96-5-163-RTC, June 18, 1998 ]**

### **RE: REPORT ON THE JUDICIAL AUDIT CONDUCTED IN THE REGIONAL TRIAL COURT, BRANCH 117, PASAY CITY.**

#### **R E S O L U T I O N**

**DAVIDE, JR., J.:**

As a result of the judicial audit and physical inventory of pending cases in the Regional Trial Court, Branch 117, Pasay City, conducted on 18 and 19 March 1996, it was discovered that, among other things, although Mr. William Villaruz was the regular Deputy Sheriff of Branch 117, most of the writs of replevin issued in eighty-seven (87) civil cases were assigned to Deputy Sheriff Virgilio Villar of Branch 111 and Deputy Sheriff Edilberto Santiago of Branch 113 said court. Upon inquiry, Teresita S. Pablo, Clerk of Court, Branch 117 informed the audit team that Deputy Sheriff Villaruz did not accept the numerous writs of replevin due to time constraints; and Villaruz himself explained that he had to request service by the other deputy sheriffs because many of those writs could only be served in the evening.

Conformably with the recommendation of the Office of the Court Administrator (OCA) in its memorandum of 24 April 1996, the court, in its resolution of 9 July 1996, required Deputy Sheriff Villaruz "to explain ... why he should not be held administratively liable for refusal to perform his official duty of serving copies of writs of replevin amounting to insubordination and/or gross inefficiency."

In his Explanation of 14 August 1996, Villaruz averred that it was not true that he refused to serve copies of the writ of replevin, in fact, he spent several days and nights monitoring the whereabouts of the properties to be seized; that although there were times when due to asthma attacks, he had to pass on service of the writs to his co-sheriffs in order not to impair the administration of justice, he nevertheless continued to perform his official duties of serving subpoenae and other court processes; and that due to his deteriorating health and age, he would like to avail of early retirement so as not to prejudice the best interest of the service.

In its resolution of 12 November 1996, the Court required Villaruz to submit copies of the sheriff's returns of service which he filed with Branch 117 from January 1995 up to the present, and to inform the Court if he would submit his case for resolution on the basis of his 14 August 1996 explanation.

In his letter of 2 January 1997, Villaruz complied with the 12 November 1996 resolution and manifested that he was submitting his case for resolution on the basis of his explanation.

On 17 June 1997, the Court referred the case to the OCA for re-evaluation, report and recommendation. The OCA then recommended that Villaruz be required to submit a "properly notarized Medical Certificate attesting to his asthmatic condition...

which prevented him from performing his duties,” which the Court approved in our resolution of 23 September 1997.

On 24 November 1997, Villaruz submitted medical certificates dated as follows: (1) 13 May 1996 and 19 November 1997 issued by Dr. Delfin P. Santos stating that Villaruz was under his care for recurring bronchial asthma since 1988; (2) 23 September 1997, issued by the Holy Saviou’s Family Clinic stating that Villaruz was examined on 26 August and 23 September 1997, for difficulty of breathing and was diagnosed as suffering from bronchial asthma; (3) 20 August 1996, showing that Villaruz was treated at Estuita Clinic of Internal Medicine for moderately severe asthmatic bronchitis; and (4) 27 August 1996, issued by Dr. Winchito M. Moral stating that Villaruz was treated for asthmatic bronchitis.

In its Memorandum of 18 February 1998, the OCA informed the Court that Deputy Sheriff Villaruz had applied for optional retirement effective 15 July 1997, which request was still pending due to this case, and that an inquiry from the Leave Section of the Office of the Administrative Services revealed that for the period of 1 January 1995 to 14 July 1997, he had no application for leave of absence except for the period of 7-30 April 1997 for vacation leave, and that he did not file his daily time records from 16 May to 14 July 1997. The OCA then observed and found:

At the very outset, Deputy Sheriff Villaruz claimed that the other deputy sheriff[s] performed his duties for him because the defendants could only be served the writs in the late evening. This assertion corroborates Branch Clerk of Court Pablo’s disclosure of time constraints as the reason for his refusal sometimes to enforce writs of replevin.

Later, he altered his excuse averring instead asthmatic condition. Explored, this ground opens the question of his work performance, office attendance and application for early retirement.

The Sheriff’s Returns of Service on record show that in 1995, he discharged his duties only in the months of May-August and November-December; in 1996, in the months of February and September – December; and in 1997, only in the month of February. There is no showing that he performed his duties the rest of the time. Viewing that no leaves of absences were filed and no reported unauthorized absences were incurred on the dates he did not perform his duties, we presume that he regularly reported to work without rendering actual service.

The medical certificates bear no moment in the light of respondent’s consistent attendance. In any case, there is nothing in the medical certificates that suggests that his asthmatic condition incapacitated him from discharging his duties. Moreover, if his health was undermining the quality of his work and conversely, his work further impaired his health, he should have filed an application for disability retirement and not early retirement. Finally, as observed in this Office’s Memorandum of August 18, 1997, “the absence of any any [sic] communication casts some doubts as to the real reason for his request for succor from other sheriffs, so that the writs under his care can be implemented.”

We are not persuaded by the documents on record that health reasons brought about his failure to perform his duties, hence, our conclusion that he is administratively liable for negligence and insubordination.