

FIRST DIVISION

[A.M. No. P-07-2405 (Formerly OCA I.P.I No. 05-2342-P), February 27, 2008]

JUDGE FLORENTINO L. LABIS, JR., Complainant, vs. GENARO ESTAÑOL, Process Server, Municipal Trial Court in Cities (MTCC), Himamaylan, Negros Occidental, Respondent.

R E S O L U T I O N

CORONA, J.:

In a letter-complaint,^[1] complainant Judge Florentino L. Labis, Jr. (presiding judge of the Municipal Trial Court in Cities, Himamaylan, Negros Occidental) charged respondent Genaro Estañol with dereliction of duty.

According to the complainant, a petition for indirect contempt was filed in his *sala* on August 12, 2005. He issued an order setting the case for hearing on September 5, 2005 and directed respondent, the court's process server, to serve the order and summons on the defendant. On the date of the hearing, the complainant learned that respondent failed to make a return of service. There was no way of knowing whether the defendant was furnished with the court orders. The hearing was reset to another date and respondent was required to explain his omission.

In his explanation, respondent claimed that he lost the court order and summons while he was serving other court processes. He apologized to the court but the complainant considered his explanation unsatisfactory and warned him against repeating the infraction.

On September 28, 2005, the complainant issued summons in an ejectment case and directed respondent to serve it and a copy of the complaint on the defendant. An order setting the hearing on October 19, 2005 was also issued. However, the hearing had to be postponed because respondent again failed to attach the return of service.

The Office of the Court Administrator (OCA) required respondent to submit his comment on the complaint.^[2]

In his comment,^[3] respondent explained that he failed to serve the summons and order in the ejectment case because the defendant had already vacated the disputed premises and could no longer be located. According to him, this fact was reflected in the return of service but he failed to promptly attach it to the records due to oversight.

In a memorandum,^[4] the OCA found respondent guilty of dereliction of duty. According to the OCA: