

SECOND DIVISION

[A.M. No. P-06-2201 [Formerly A.M. OCA I.P.I. No. 03-1649-P], June 30, 2008]

JUDGE PLACIDO C. MARQUEZ, COMPLAINANT, VS. MARIO M. PABLICO, PROCESS SERVER, REGIONAL TRIAL COURT, MANILA, BRANCH 40, RESPONDENT.

RESOLUTION

CARPIO MORALES, J.:

On September 2, 2002, Judge Placido C. Marquez^[1] (the judge or complainant), then Presiding Judge, Regional Trial Court, Branch 40, Manila, issued two letters-memoranda^[2] to Mario Pablico (respondent), Branch Process Server, directing him to explain in writing within ten days why he should not be recommended to be dropped from the rolls, in accordance with Rule XII, Section 2.2. (a) of Memorandum Circular No. 40, series of 1998 of the Civil Service Commission, for failure to attach registry receipts and registry return cards to the records of the cases enumerated in the letters-memoranda. The Office of the Court Administrator (OCA), which was copy furnished these memoranda, directed respondent, by 1st Indorsement of October 23, 2002, to Comment thereon.^[3]

In his November 29, 2002 letter-comment,^[4] respondent, denying the charge, attached copies of several Orders issued in the cases listed in the memoranda, together with the corresponding registry receipts and registry return cards.

Listing the following as his duties assigned to him by the judge, *viz*:

1. Stitching of records;
2. Preparing Registry Receipts and attaching the same to the record;
3. Preparing return cards and attaching the same to their respective cases;
4. Mailing of Orders and Subpoenas;
5. Personally serving motions/orders to parties;
6. Receiving all motions/pleadings both of civil and criminal cases, and mail matters and attach them to the record aside from the regular and designated job for the Process Server as stated in Job Description.

respondent stated:

With all above load works imposed by Judge Marquez to the undersigned, it is not surprising, if and when there are some little things that undersigned would neglect but were also being done. Nobody is perfect anyway and Judge Marquez should understand that. But instead of giving undersigned his full understanding as a father to his children, here are

left and right accusations being imputed by said Judge as well as our Officer-in-Charge, Ligaya V. Reyes. This is the third (3rd) charge as against undersigned. It seems there is a concerted effort to remove the undersigned from the service, unfortunately, all their charges have no basis at all. If there is an iota of neglect, maybe minimal which undersigned may have overlooked due to the numerous works designated to undersigned and to which I beg your Honors to understand. (Underscoring supplied)

By letter of January 13, 2003,^[5] the OCA forwarded a copy of respondent's Comment *cum* annexes to the judge and required him to inform if he was satisfied therewith.

Complainant, by letter dated February 8, 2003,^[6] manifested his dissatisfaction with the explanation of respondent and recommended that he be dropped from the rolls.

Complainant emphasized that respondent performed additional duties only in the absence of a utility worker in his sala, but that he was relieved thereof when a new utility aide assumed the post.

To refute respondent's allegation that he had consistently performed his duties, complainant attached a copy of the memorandum dated November 26, 2001^[7] of then Branch Clerk of Court Gilbert A. Berjamin.

Respecting the return card and registry receipts attached to respondent's Comment, complainant averred that they were accomplished only after a physical inventory of all pending cases was conducted and his attention to his failure to accomplish them was repeatedly called.

To prove his "continuing gross neglect of duties," complainant cited the Orders which were mostly issued during actual court hearings to compel him to perform his duties.^[8]

By Resolution of July 2, 2003,^[9] this Court referred the case to the then Executive Judge Enrico A. Lanzanas for investigation, report and recommendation within 90 days from receipt of the records of the case.

Judge Antonio M. Eugenio, Jr., who succeeded Judge Lanzanas as Executive Judge, by Report and Recommendation dated November 23, 2005,^[10] submitted the following findings:

Respondent admitted neglecting some of his duties giving as a reason the volume of work assigned to him by the complainant, i.e., the duties of the Utility Worker. This is no excuse. Respondent may well be reminded that in the job description, **the employee is sworn to perform such other duties that may be assigned to him, aside from the duties specified therein.** Moreover, respondent's assumption of the additional duties of the Utility Worker was only temporary as the position was then vacant. Who is more likely to take over the duties of the Utility Worker other than the Process Server? And the record shows that **as soon as a Utility Worker was hired, these additional duties ceased to be his**

responsibilities.

Respondent's neglect of his duties did not occur once or twice. It was in fact habitual. The several memoranda issued to him by Ligaya V. Reyes, regardless of whether or not she was still the officer in charge at the time, and their former branch clerk, Atty. Gilbert Benjamin, as well as the meetings called by the complainant, to remind of his duties are more than adequate to put a neglectful employee on guard. That his former judges were not strict on the way he performed his duties and did not require of him as much as the complainant did is of no consequence. The fact remains that as process server of Branch 40, he is sworn to perform his duties as described in his job description and all other tasks that may be assigned to him from time to time.

Section 1, Article XI of the 1987 Philippine Constitution should be taken to heart by every public officer and employee, to wit: "Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives."

An additional task like the job of a utility worker, in the absence of such an employee, is not too much to ask if the same would redound to the good of the service. And the respondent should not harp on it or invoke it as a protective shield in neglecting his other duties.^[11] (Emphasis and underscoring supplied)

Judge Eugenio thereupon recommended the suspension of respondent for one month and one day without pay, with a stern warning that a repetition of the same or similar act would be dealt with more severely, ratiocinating as follows:

[T]hough we find the respondent answerable to the charges aired by the complainant, a meticulous perusal of the documents presented by the complainant reveals **no single instance where respondent's neglect of duty resulted in the disruption of service to the public nor did it damage or prejudice any litigant.** This circumstance should serve to mitigate the actuations of respondent.^[12] (Emphasis supplied)

By Resolution of February 6, 2006,^[13] this Court required the parties to manifest whether they were willing to submit the case for decision on the basis of the pleadings/records already filed and submitted. Only complainant complied (in the affirmative), however.^[14]

And by Resolution of March 22, 2006,^[15] this Court referred the report and recommendation of Judge Eugenio to the OCA for evaluation, report and recommendation.

In its Memorandum dated June 13, 2006,^[16] the OCA found the recommendation of Judge Eugenio to be in accordance with the result of the investigation. It accordingly adopted the recommended penalty.