

THIRD DIVISION

[A.M. NO. P-07-2294 (FORMERLY OCA IPI NO. 04-2010-P), August 07, 2007]

JUDGE ANATALIO S. NECESARIO, COMPLAINANT, VS. MYNER B. DINGLASA, PROCESS SERVER, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

Before us is a letter-complaint^[1] dated June 8, 2004 filed by Judge Anatalio S. Necesario (complainant) against Myner B. Dinglasa (respondent), Process Server, Municipal Trial Court in Cities (MTCC), Branch 2, Cebu City, charging him with Absence Without Official Leave, Incompetence and/or Dereliction of Duty and Conduct Prejudicial to the Best Interest of the Service.

Complainant alleges that he issued Memorandum No. 01-04-30-2004^[2] dated April 30, 2004 directing respondent to answer the complaints and reports against him (respondent) and to report to the Office of the Clerk of Court (OCC), MTCC, Cebu City, until further orders, effective immediately; and that respondent be considered absent without official leave (AWOL) for the month of April 2004 for his failure to show up or inform the office of his whereabouts.

The Office of the Court Administrator (OCA) in a 1st Indorsement dated September 22, 2004, required respondent to comment on the letter-complaint. A 1st Tracer was sent by the OCA on January 31, 2005 to respondent, reiterating its directive to comply with the 1st Indorsement; otherwise, the matter will be submitted to the Court without his comment.

Upon recommendation of the OCA in its Report dated September 1, 2005, the Court, in its Resolution of November 21, 2005, required respondent to show cause why he should not be administratively dealt with for refusing to submit his comment despite the two (2) directives from the OCA; and to submit the required comment, otherwise, the Court shall take the necessary action against him and decide the administrative complaint on the basis of the record at hand.

The show cause Resolution was returned to this Court with notation on the envelope "RTS-DISMISSED." In its Resolution of March 1, 2006, the Court referred the matter to the OCA for verification and report on the veracity of respondent's dismissal.

In its Memorandum dated May 23, 2006, the OCA reported, to wit:

Records of this Office shows that in a resolution dated 19 September 2005 in A.M. No. 05-8-228-MTCC (Re: Absence Without Official Leave [AWOL] of Mr. Myner Dinglasa, Process Server, MTCC, Cebu City), Mr. Dinglasa was dropped from the rolls effective December 8, 2004 for