

EN BANC

[A.M. NO. 02-8-198-METC, June 08, 2005]

RE: CRIMINAL CASE NO. MC-02-5637 AGAINST ARTURO V. PERALTA AND LARRY C. DE GUZMAN, BOTH EMPLOYEES OF METC, BRANCH 31, QUEZON CITY.

DECISION

PER CURIAM:

On July 31, 2002, the Office of the Court Administrator (OCA) received from the Office of the City Prosecutor, Mandaluyong City a copy of the Information in Criminal Case No. MC-02-5637 for robbery (extortion) filed against Arturo Peralta, Deputy Sheriff, and Larry De Guzman, Branch Clerk of Court,^[1] of the Metropolitan Trial Court (MeTC), Branch 31, Quezon City. Attached with the Information are pertinent documents relative to the said criminal case.

It appears that PO3 Hernani Aga of the Philippine National Police (PNP), and his wife, Dr. Ma. Perlita Aga, were the defendants in Civil Case No. Q-02-46194 for replevin filed with the Regional Trial Court (RTC), Branch 215, Quezon City by Christy Gonzales. This civil case stemmed from the following facts: that Dr. Ma. Perlita Aga bought a car from Christopher Hernandez; that it turned out that he was not the owner of the vehicle but one Christy Gonzales; that she filed the said civil case for replevin against spouses Aga; that eventually the trial court issued a writ of replevin against them; that sheriff Arturo Peralta served the writ and took possession of the car – Mitsubishi Galant Sedan with Plate No. TKA-325; that thereafter, spouses Aga filed a motion for the return of the car with a counter replevin bond; and that on July 9, 2002, the trial court issued a Resolution granting the motion and ordering sheriff Peralta to recover the seized vehicle from Christy Gonzales and to return it to spouses Aga.

On July 23, 2002, SPO3 Aga presented to sheriff Peralta a copy of the Resolution for implementation. However, Peralta and a certain "Larry" then demanded P5,000.00 from him. He had no choice but to agree to their demand. The pay-off was then set on July 24, 2002 at 2:00 p.m. inside the Jollibee fastfood outlet at Shaw Boulevard corner Acacia Lane, Mandaluyong City.

SPO3 Aga reported the matter to the National Bureau of Investigation (NBI) and an entrapment operation was set. Five (5) one hundred peso bills were dusted with fluorescent powder and mixed with boodle money to simulate the amount of P5,000.00. Shortly before the designated time, SPO3 Aga, together with several NBI Agents, positioned themselves strategically at the meeting place.

Peralta and "Larry" then arrived. Together with SPO3 Aga, they proceeded to the house of Christy Gonzales in P. Cruz St., Mandaluyong City to implement the trial court's Resolution directing sheriff Peralta to recover the vehicle from Christy

Gonzales and turn it over to SPO3 Aga. Meanwhile, the NBI Agents followed them.

When the group reached the house of Christy, she was not there. Peralta and "Larry" then told SPO3 Aga, "*Pare ganito, kami na ang bahala d'yan, kami na ang kukuha ng sasakyan, huwag kang mag-alala. Ibigay mo na yung pera.*" (Don't worry, we'll take care of it, we'll be the ones to get the vehicle. Just give us the money.")

SPO3 Aga then handed half of the marked money to "Larry" and the other half to Peralta. At that instance, the NBI operatives moved in and arrested Peralta and "Larry".

"Larry" turned out to be Larry De Guzman, the Branch Clerk of Court of the MeTC, Branch 31, Quezon City. He and Peralta were then brought to the NBI Forensic Chemistry Division for ultraviolet examination. Only De Guzman was found positive for fluorescent powder, while sheriff Peralta proved to be negative.^[2]

As earlier mentioned, the Office of the City Prosecutor of Mandaluyong City charged Peralta and De Guzman with robbery (extortion); and that the records of Criminal Case No. MC-02-5637 were forwarded to the Office of the Court Administrator (OCA).

In his Report dated August 12, 2002, Deputy Court Administrator (DCA) Christopher O. Lock recommended that:

- "1. Larry C. De Guzman and Arturo Peralta be directed to COMMENT on the Joint Affidavit of Arrest and Information relative to the robbery and extortion charges against them and that this be REDOCKETED as a regular administrative matter;
2. Larry C. De Guzman and Arturo Peralta be SUSPENDED pending the final outcome of the criminal case against them considering the evidence is *prima facie* strong; and
3. The Branch Clerk of Court of RTC, Branch 208, Mandaluyong City be DIRECTED to apprise the Court through the Office of the Court Administrator of the status of the proceedings of Criminal Case No. MC-02-5637 until its final termination."^[3]

On March 5, 2003, we issued a Resolution adopting the above recommendation.

The comment of sheriff Arturo Peralta follows:

On April 16, 2002, the RTC of Quezon City, Branch 215, issued an Order appointing Peralta as special sheriff in Civil Case No. 02-46194 for replevin filed by Christy Gonzales against PO3 Hernani Aga and his wife. On April 18, 2002, Peralta, accompanied by Christy Gonzales, Larry De Guzman, and PO3 Randy Ruñez of the Quezon City PNP, went to the house of SPO3 Aga to execute the writ of replevin issued by the trial court. But SPO3 Aga remained obstinate until other police officers intervened.

On July 23, 2002, SPO3 Aga presented to Peralta a court Resolution directing him to recover the seized vehicle from Christy Gonzales. As it was already late in the day, he asked SPO3 Aga to meet him at 2:00 p.m. of the following day at the Jollibee, Shaw Blvd. corner Acacia Lane, Mandaluyong City.

On July 24, 2002, Peralta and De Guzman met SPO3 Aga at Jollibee as agreed upon. But in order to avoid a violent confrontation between the parties, only Peralta and De Guzman went to Christy's house. But she was not there.

Peralta and De Guzman then decided to return to their office. They were looking for a taxi when SPO3 Aga offered them money for snacks and taxi fare. They refused, but SPO3 Aga was insistent and suddenly thrust the money into the hands of De Guzman. It was then that several armed men ganged up on them and shoved them inside a waiting van. SPO3 Aga kept telling them, *"Nakaganti na rin ako sa inyo. Sabi ko ipapatanggal ko kayo sa trabaho ninyo, para ninyo akong tinanggalan ng ulo nang kinuha ninyo ang kotse ko."* ("I've had my revenge on you. I told you I will have you removed from work, as I felt like my head was chopped off when you got my car.")

Peralta further explained that as a mere sheriff, who does not have a firearm, he could not have extorted money from a police officer authorized to carry a gun and to apprehend malefactors; and that out of vengeance, considering that he (Peralta) seized the car of SPO3 Aga earlier, the latter conceived the scheme of entrapping him and De Guzman.

Larry De Guzman did not file his comment.

On August 11, 2003, we issued a Resolution referring this matter to Executive Judge Natividad Dizon, RTC, Quezon City for investigation, report, and recommendation.

In her Report and Recommendation dated January 29, 2004, Executive Judge Dizon made the following findings:

"After a careful perusal and examination of the documentary evidence, the Investigating Judge is convinced that respondent Larry C. De Guzman is administratively liable for grave or serious misconduct and dishonesty. The Investigating Judge is in quandary why respondent Branch Clerk of Court Larry C. De Guzman was with the sheriff in the implementation of the writ of execution. Instead of being with the Sheriff, as the administrative officer in his Branch, he should be in his office to attend to his duties and responsibilities as Branch Clerk of Court MeTC, Branch 31, Quezon City. It is not one of his duties to assist the Sheriff in the enforcement of the writ of execution.

Despite notice to him, respondent Larry De Guzman did not submit his own evidence to explain his side and to attend during the entire hearing-investigation. Also, when he was ordered by the Office of the Court Administrator to file his comment, respondent Larry De Guzman failed to do so. A person who is innocent of a charge is bolder as a lion in asserting his innocence and rights. Moreover, it is clearly shown that when respondent Larry De Guzman was brought to the NBI Forensic Chemistry Division, he was found to have presence of the yellow