

## THIRD DIVISION

**[ A.M. No. P-05-2090, November 18, 2005 ]**

**ESTRELLA V. ALVAREZ, COMPLAINANT, VS. JOY ALBERT B. BULAO, PROCESS SERVER, MUNICIPAL CIRCUIT TRIAL COURT, LIBMANAN-CABUSAO, CAMARINES SUR, RESPONDENT.**

### DECISION

#### **PANGANIBAN, J.:**

The Court once again underscores the paramount importance of sowing seeds of professionalism and responsibility in all ranks and levels of government service. Consistent with this objective, process servers are duty-bound to serve summonses, writs and other court processes promptly, diligently and carefully. Unjustified delay in their performance of official functions constitutes neglect of duty and warrants the imposition of administrative sanctions.

#### **The Case and the Facts**

This case stems from the sworn Letter-Complaint<sup>[1]</sup> filed on August 11, 1999 by Clerk of Court II Estrella V. Alvarez of the Municipal Circuit Trial Court (MCTC) of Libmanan-Cabusao, Camarines Sur, against Process Server Joy Albert Bulao. The Complaint charged Bulao with falsification of his Daily Time Records (DTRs), habitual absenteeism, gross neglect of duty, inefficiency, insubordination and conduct prejudicial to the best interest of the service.

According to complainant, respondent

- rarely reported to the office and, when he did, he stayed for about 15 minutes only, on the pretext that he would be serving summonses and subpoenas, even if he would not in fact do so;
- falsified his DTRs by registering his name in the attendance logbook to make it appear that he had reported for work when he had actually been absent the whole day;
- repeatedly ignored and disobeyed various Memoranda issued to him by complainant, who had required him to comply with office rules and to explain his subsequent non-compliance;
- showed gross inefficiency in the performance of his work by refusing and neglecting to serve summonses and other notices, thereby incurring the ire of litigants and lawyers who were unduly prejudiced by the unreasonable delay in the disposition of their cases; and resulting in the accumulation of unserved court processes, such that the court had to request the assistance of the

Libmanan police in the timely service of court notices; and

- did not cooperate with his co-workers for the smooth and efficient running of the office.

In his Comment<sup>[2]</sup> dated October 13, 1999, respondent denied all the accusations of complainant, contending that the charges were unfounded, biased and contrary to the records of their office. He averred that she had (1) wanted to terminate his services in order to replace him with her chosen employee; (2) unjustly refused to furnish him a copy of his previously submitted Itinerary of Travel, which was vital to his defense; and (3) refused without justifiable ground to sign his DTRs from November 1998 to July 1999, and arbitrarily withheld them from the Leave Division of the Supreme Court, resulting in his being declared "absent without official leave" (AWOL). Hence, he failed to receive his salary and benefits from July 1999 to the present.

A material conflict, which could not be resolved on the basis of the evidence on record, existed between the respective allegations of the parties. Thus, the Court referred the Complaint to the executive judge of the RTC of Libmanan, Camarines Sur, for investigation, report and recommendation.<sup>[3]</sup>

The dismissal of the Complaint without prejudice was recommended by Executive Judge Lore R. Bagalacsa in her Investigation Report<sup>[4]</sup> dated April 23, 2003. She noted that the Complaint was replete with procedural infirmities, and that it had failed to substantiate complainant's allegations against respondent.

In its Evaluation, Report and Recommendation dated September 9, 2003, the OCA likewise recommended the dismissal of the Complaint, on the ground that complainant failed to prove the charges with substantial evidence.

In a Resolution dated October 20, 2003, the Court resolved to adopt the following recommendation of the OCA:

"In the case at bar, the required quantum of proof has not been met. Complainant was unable to effectively discharge the burden of proving the charges she has made. While she submitted the joint affidavit of two (2) employees of the MCTC of Libmanan to show that respondent failed to report for work for three (3) consecutive weeks for the month of May 1999, respondent, however, countered this by likewise submitting the affidavits of two (2) other employees of the same court, stating that they saw respondent report for work for the period stated.

"Further, while complainant alleged that the refusal of respondent to serve court processes has earned the ire of lawyers and litigants whose cases are unduly delayed thereby, she however failed to submit the affidavits of said persons.

"Finally, it is significant to note that, based on the allegation of respondent in his comment, complainant deliberately withheld submission of respondent's DTRs to the Leave Section of the OCA, which resulted in respondent being declared on AWOL. x x x. Such act of complainant clearly shows bad faith and indicates the possible existence

of a personal grudge against respondent. This may have motivated complainant to file the instant administrative complaint[.]"<sup>[5]</sup>

Complainant subsequently filed a Motion for Reconsideration. She explained that she had withheld respondent's DTR for November 2001 because of his failure or refusal to attach his application for almost one month of sick leave, as well as a medical certificate to support his absences.<sup>[6]</sup> She gave the same explanation in her letter<sup>[7]</sup> dated January 24, 2002, addressed to Ma. Corazon M. Molo of the Supreme Court's Office of Administrative Services. Complainant also attached to her Motion a copy of her letter<sup>[8]</sup> dated August 16, 1999, stating her reasons for disapproving respondent's DTRs for November 1998 to July 1999.

Moreover, complainant pointed out that the Resolution had failed to consider the series of Orders<sup>[9]</sup> issued by Judges Jovito B. Palo Jr. and Daniel C. Joven, both of whom had acted as presiding judge of the MCTC of Libmanan-Cabusao, Camarines Sur. The Orders, which were attached to the letter-Complaint, showed that respondent had repeatedly been given stern warnings for his failure to serve subpoenas/summonses on time. In addition, complainant submitted copies of the latest Orders<sup>[10]</sup> of Judge Palo and the December 2, 2003 Affidavit of Atty. Jose C. Claro,<sup>[11]</sup> a private practitioner, showing respondent's persistent failures to perform official duties.

In his Comment on the Motion for Reconsideration dated July 22, 2003,<sup>[12]</sup> respondent vehemently denied anew the charges against him. He averred that they had already been included in the earlier Complaint dismissed by the Court.<sup>[13]</sup> He further averred that he and complainant had talked about the case; and that the latter had admitted having filed the Motion because of a misunderstanding between them; but that she did not want him to be removed from office. Thus, she allegedly told him that they should just forget about the case and resolve it simply by performing their duties and responsibilities as public servants.

### **Evaluation and Recommendation of the Office of the Court Administrator**

In its Memorandum submitted to the Court on October 27, 2004, the OCA expressed satisfaction over the explanation given by complainant for her failure to submit the DTRs of respondent to the Leave Division of the Court. In addition, it remarked that he had been declared AWOL due to his own fault.

More important, the OCA found merit in the Motion for Reconsideration. The new documents attached to the Motion evidently showed "that respondent had indeed been negligent in the performance of his duty." He, however, merely made a general denial and "absolutely failed to refute the additional claims" and evidence presented by complainant. Thus, the OCA found him guilty of simple neglect of duty, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense, as prescribed under Memorandum Circular No. 19 of the Civil Service Commission (CSC).

### **The Court's Ruling**