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on Bar Discipline which is to suspend Atty. De Taza from the practice of law for two years.

WHEREFORE, respondent Atty. Norlita De Taza is hereby **SUSPENDED** from the practice of law for **TWO YEARS** with a **STERN WARNING** that a repetition of the same or similar infraction would be dealt with more severely.

Let copies of this Decision be furnished all courts of the land, the Integrated Bar of the Philippines, as well as the Office of the Bar Confidant for their information and guidance, and let it be entered in Atty. Norlita De Taza's record in this Court.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr.,Perez, Mendoza, Perlas-Bernabe, and *Leonen, JJ.,* concur.

EN BANC

[A.M. No. P-13-3123. June 10, 2014]

ALBERTO VALDEZ, *complainant, vs.* **DESIDERIO W. MACUSI, JR., Sheriff IV, Regional Trial Court, Branch 25, Tabuk, Kalinga,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENTS; RETURN OF WRIT OF EXECUTION; THIRTY-DAY PERIOD FOR EXECUTION AND PERIODIC REPORT EVERY 30 DAYS; NON COMPLIANCE THEREWITH RENDERS THE SHERIFF GUILTY OF SIMPLE NEGLECT OF DUTY.— [Under] Section 14, Rule 39 of the 1997 Rules of Civil Procedure, x x x [t]he 30-day period imposed for the execution of the

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writ after the judgment has been received by the sheriff, as well as the periodic report every 30 days, is mandatory under the rule. In *Aquino v. Martin*, we held that it is mandatory for the sheriff to execute the judgment and make a return on the writ of execution within the period provided by the Rules of Court. Also, the sheriff must make periodic reports on partially satisfied or unsatisfied writs in accordance with the rule in order that the court and the litigants are apprised of the proceedings undertaken. Such periodic reporting on the status of the writs must be done by the sheriff regularly and consistently every 30 days until they are returned fully satisfied. In the present case, x x x Sheriff Macusi failed to implement the court order and failed to submit periodic reports of the actions he had taken on the writ "every 30 days until the judgment is satisfied in full, or its effectivity expires," as required by the Rules. x x x Sheriff Macusi was remiss in his duties and is thus liable for simple neglect of duty.

2. POLITICAL LAW; ADMINISTRATIVE LAW; UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE; SIMPLE NEGLECT OF DUTY; PENALTY.— Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference. Under the Revised Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is a less grave offense punishable with suspension of one month and one day to six months for the first offense and dismissal for the second offense.

3. ID.; ID.; CODE OF CONDUCT FOR COURT PERSONNEL; CONFLICT OF INTEREST; VIOLATED BY RESPONDENT SHERIFF FOR FAILURE TO DISCLOSE THAT ACCUSED IN THE JUDGMENT HE IS EXECUTING IS HIS BROTHER; PENALTY.— [A]side from Sheriff Macusi's long delay in the enforcement of the writ, it has also been verified by the OCA that Sheriff Macusi is the brother of the accused Jorge Macusi in Criminal Case No. 4050. Section 1(a)(i) of Canon III of the Code of Conduct for Court Personnel provides: Section 1. Court personnel shall avoid conflicts of interest in performing official duties. Every court personnel is required to exercise utmost diligence in being aware of conflicts of interest, disclosing conflicts of interest to the designated authority, and terminating them as they arise. (a) A conflict of interest exists when: (i) The court personnel's

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objective ability or independence of judgment in performing official duties is impaired or may reasonably appear to be impaired; x x x As an officer of the court, Sheriff Macusi should have informed the court and inhibited himself from enforcing the writ knowing fully well that there is a conflict of interest since the accused is his brother. It is incumbent upon him, as an agent of the law, to adhere to high ethical standards in order to preserve the good name and standing of the court. In *Office of the Court Administrator v. Sheriff IV Cabe*, we emphasized the heavy burden and responsibility which court personnel bear in view of their exalted positions as keepers of public faith. They must be constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. We agree with the OCA that Sheriff Macusi violated the Code of Conduct for Court Personnel for his failure to disclose that the accused in *"People v. Jorge Macusi y Wayet"* is his brother. The Rules classify this violation of existing Civil Service Law and rules a serious offense punishable with suspension of one month and one day to six months for the first offense and *dismissal for the second offense.*

4. ID.; ID.; UNIFORM RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE; PENALTY FOR THE MOST SERIOUS OFFENSE; IMPOSED IF GUILTY OF TWO OR MORE CHARGES; CASE AT BAR.— Here, respondent is found guilty of committing two offenses: (1) simple neglect of duty (second offense), and (2) violation of civil service law and rules of a serious nature (first offense). Thus, the penalty for the more serious offense must be imposed. This is expressly laid down under Section 55, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service. x x x In view of the circumstances, the penalty that should be imposed is dismissal from the government service. However, considering that Sheriff Macusi was deemed resigned after filing his certificate of candidacy making the penalty of dismissal no longer feasible, we impose on him the penalty of forfeiture of retirement benefits, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations, since he had been previously warned that a repetition of the same or similar act would be dealt with more severely.

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D E C I S I O N

PER CURIAM:

This administrative matter refers to the failure of respondent Desiderio W. Macusi, Jr., Sheriff IV, Regional Trial Court (RTC) of Tabuk, Kalinga, Branch 25, to act on a writ of execution issued by the Municipal Trial Court in Cities (MTCC) of Tabuk, Kalinga on 3 December 2003 in Criminal Case No. 4050, entitled "*People v. Jorge Macusi y Wayet*," for reckless imprudence and negligence resulting in homicide. Sheriff Macusi was charged with misfeasance, nonfeasance or conduct prejudicial to the best interest of the service.

In a letter-complaint[1] dated 12 May 2009 sent to Judge Victor Dalanao (Judge Dalanao), presiding judge of the MTCC of Tabuk, Kalinga, complainant Alberto Valdez (Valdez) alleged that Sheriff Macusi failed to act on the writ of execution issued by the MTCC in violation of Section 14, Rule 39 of the 1997 Rules of Civil Procedure.

In his Comment[2] dated 14 July 2009, Sheriff Macusi stated that he was appointed as Sheriff IV in the Province of Kalinga on 24 May 2004. Sheriff Macusi explained that in a Report[3] dated 6 January 2004, his predecessor, Francisco C. Mabazza, served on accused Jorge Macusi the writ of execution issued by the MTCC on 5 December 2003. However, the accused replied that he had no money to pay for the execution. Thus, the notation in the writ of execution was "unsatisfactory (sic) served." Thereafter, Sheriff Macusi stated that he tried to serve the order again by entering the residence of defendant looking for personal properties that could be confiscated on account of the writ but to no avail. Sheriff Macusi then asked accused to voluntarily comply with his legal obligation but found out that accused had suffered a stroke and could no longer fend for himself and his family and resorted to accepting charity from his sister.

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[1] *Rollo*, p. 3.

[2] *Id.* at 9-11.

[3] *Id.* at 13.

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In a Partial Report[4] dated 3 May 2006, Sheriff Macusi filed a return of the writ of execution stating that it was still unserved. The relevant portions of the Report state:

1. That the accused because of the incident suffered a stroke and therefrom could no longer find a livelihood for himself and his children and as stated in the order of the Honorable Court is now living on the charity of his sister. His sister is also tending to the needs of their mother who also suffered the same fate because of illness that befell her son;

x x x x x x x x x

3. That the court battle begun armed with the hope that the accused was never given his day in court (in fact an ocular inspection was done to determine the seriousness of the illness of the accused and at that time he could hardly speak and walk yet the court continued hearing his case; thus, his right to be present in all the stages of the court proceedings of his case was denied) will be imprisoned should the decision of the Hon. Court will (sic) be against him;

x x x x x x x x x

Sheriff Macusi averred that he could not be held liable for misfeasance, nonfeasance or conduct prejudicial to the best interest of the service since he carried out all the possible legal remedies on execution and satisfaction of judgment under the rules.

On 19 June 2006, Judge Dalanao issued an Order[5] stating that the Partial Report dated 3 May 2006 of Sheriff Macusi was an improper and inadequate report as required under the Rules. The relevant portions of the Order state:

It appears therefrom that the said report is not the report contemplated by law, which should be submitted monthly to the Court (Section 14, Rule 39, 1997 Rules of Civil Procedure).

Instead, the Sheriff appears to be lawyering for accused, even going to the extent of accusing the Court of having denied the accused his day in Court. Certainly, this comment, from a responsible officer

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[4] *Id*. at 14-15.

[5] *Id*. at 16.

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of the Court is unwarranted or without any justification at all. Not only that, it will certainly diminish the good image of the Court, and worst, tarnish the faith and confidence of the litigants in our judicial processes.

The Court just came to know that the accused in this case is the brother of Sheriff Desiderio Macusi. The least that he should have done was to inhibit himself from handling this case.

Furnish a copy of this Order to the Executive Judge for his information and/or appropriate action without prejudice for this Court to take measures appropriate under the premises, where warranted.

SO ORDERED.

Valdez, in the letter-complaint, added that Sheriff Macusi did not submit another report to the court since the time the MTCC issued the Order dated 19 June 2006. Acting on the letter-complaint, Judge Dalanao issued an Order dated 13 May 2009 endorsing the letter-complaint to the Office of the Court Administrator (OCA) for appropriate action.

In a Report dated 1 June 2010, the OCA recommended that the administrative complaint be referred to the Executive Judge of the RTC of Bulanao, Tabuk City, Kalinga, Branch 25, for investigation, report and recommendation within 60 days from receipt of notice. In a Resolution[6] dated 28 July 2010, this Court adopted the recommendation of the OCA and referred the matter to Executive Judge Marcelino K. Wacas (Judge Wacas).

In an Investigation Report[7] dated 20 April 2012, Judge Wacas found no substantial evidence to hold Sheriff Macusi for the offense charged and recommended the dismissal of the complaint. In a Resolution[8] dated 4 July 2012, this Court referred the Investigation Report to the OCA.

In its Report[9] dated 23 April 2013, the OCA disagreed with the recommendation of Judge Wacas and found Sheriff Macusi

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[6] *Id.* at 19-20.

[7] *Id.* at 28-32.

[8] *Id.* at 36.

[9] *Id.* at 37-41.

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liable for (1) simple neglect of duty for his failure to submit the proper returns, and (2) violation of the Code of Conduct for Court Personnel for his failure to disclose that the accused in "*People v. Jorge Macusi y Wayet*" is his brother. The OCA recommended that Sheriff Macusi be suspended from office for two months without pay. The recommendation of the OCA states:

1. The instant administrative complaint be RE-DOCKETED as a regular administrative matter;
2. Desiderio W. Macusi, Jr., Sheriff IV, Branch 25, Regional Trial Court, Tabuk, Kalinga, be held LIABLE for Simple Neglect of Duty and Violation of the Code of Conduct for Court Personnel; and
3. Sheriff Macusi be SUSPENDED from office for two (2) months without pay, with a WARNING that a repetition of the same or a similar act shall be dealt with more severely.[10]

We adopt the findings of the OCA but modify its recommendation on the penalty.

Section 14, Rule 39 of the 1997 Rules of Civil Procedure states:

> Section 14. *Return of writ of execution.* — The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

The 30-day period imposed for the execution of the writ after the judgment has been received by the sheriff, as well as the

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[10] *Id*. at 40-41.

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periodic report every 30 days, is mandatory under the rule. In *Aquino v. Martin*,[11] we held that it is mandatory for the sheriff to execute the judgment and make a return on the writ of execution within the period provided by the Rules of Court. Also, the sheriff must make periodic reports on partially satisfied or unsatisfied writs in accordance with the rule in order that the court and the litigants are apprised of the proceedings undertaken. Such periodic reporting on the status of the writs must be done by the sheriff regularly and consistently every 30 days until they are returned fully satisfied.

In the present case, the records show that Sheriff Macusi submitted only one return of writ of execution in his Partial Report dated 3 May 2006 and did not file any other report to the court. Sheriff Macusi failed to implement the court order and failed to submit periodic reports of the actions he had taken on the writ "every 30 days until the judgment is satisfied in full, or its effectivity expires," as required by the Rules. In *Dilan v. Dulfo*,[12] we held that sheriffs play an important part in the administration of justice because they are tasked to execute the final judgment of courts. If not enforced, such decisions are empty victories on the part of the prevailing parties. Clearly, Sheriff Macusi was remiss in his duties and is thus liable for simple neglect of duty.

Simple neglect of duty is the failure to give attention to a task, or the disregard of a duty due to carelessness or indifference. Under the Revised Uniform Rules on Administrative Cases in the Civil Service,[13] simple neglect of duty is a less grave offense punishable with suspension of one month and one day to six months for the first offense and dismissal for the second offense.[14]

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[11] 458 Phil. 76 (2003), citing *Concerned Citizen v. Torio*, 433 Phil. 649 (2002).

[12] 364 Phil. 103 (1999).

[13] Memorandum Circular No. 19, series of 1999.

[14] Section 52 (B)(1), Rule IV, Memorandum Circular No. 19, series of 1999.

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Further, aside from Sheriff Macusi's long delay in the enforcement of the writ, it has also been verified by the OCA that Sheriff Macusi is the brother of the accused Jorge Macusi in Criminal Case No. 4050. Section 1(a)(i) of Canon III of the Code of Conduct for Court Personnel provides:

> Section 1. Court personnel shall avoid conflicts of interest in performing official duties. Every court personnel is required to exercise utmost diligence in being aware of conflicts of interest, disclosing conflicts of interest to the designated authority, and terminating them as they arise.
>
> (a) A conflict of interest exists when:
>
> (i) The court personnel's objective ability or independence of judgment in performing official duties is impaired or may reasonably appear to be impaired; x x x

As an officer of the court, Sheriff Macusi should have informed the court and inhibited himself from enforcing the writ knowing fully well that there is a conflict of interest since the accused is his brother. It is incumbent upon him, as an agent of the law, to adhere to high ethical standards in order to preserve the good name and standing of the court. In *Office of the Court Administrator v. Sheriff IV Cabe*,[15] we emphasized the heavy burden and responsibility which court personnel bear in view of their exalted positions as keepers of public faith. They must be constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided. We agree with the OCA that Sheriff Macusi violated the Code of Conduct for Court Personnel for his failure to disclose that the accused in "*People v. Jorge Macusi y Wayet*" is his brother. The Rules classify this violation of existing Civil Service Law and rules a serious offense punishable with suspension of one month and one day to six months for the first offense and *dismissal for the second offense*.[16]

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[15] 389 Phil. 685 (2000).

[16] Section 52 (B)(4), Rule IV, Memorandum Circular No. 19, series of 1999.

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We disagree with the penalty of suspension for two months without pay as recommended by the OCA. This is the second time that Sheriff Macusi was found guilty of simple neglect of duty. In the 2013 case of *Office of the Court Administrator v. Macusi, Jr.*,[17] this Court found Sheriff Macusi liable for simple neglect of duty for his "failure to file periodic reports on the Writ of Execution dated 10 September 2008 in Civil Case No. 429-06, as well as on the writs of execution in the other cases in Judge Dalanao's inventory." However, instead of imposing on him the penalty of suspension from service in accordance with the Rules, the Court imposed on him the penalty of fine of ₱4,000 since he was deemed resigned from government service after filing his certificate of candidacy for the 2010 local elections.

Here, respondent is found guilty of committing two offenses: (1) simple neglect of duty (second offense), and (2) violation of civil service law and rules of a serious nature (first offense). Thus, the penalty for the more serious offense must be imposed. This is expressly laid down under Section 55, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service which states:

> Section 55. *Penalty for the Most Serious Offense*. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

In view of the circumstances, the penalty that should be imposed is dismissal from the government service. However, considering that Sheriff Macusi was deemed resigned after filing his certificate of candidacy making the penalty of dismissal no longer feasible, we impose on him the penalty of forfeiture of retirement benefits, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations, since he had

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[17] A.M. No. P-13-3105, 11 September 2013, 705 SCRA 377.

been previously warned that a repetition of the same or similar act would be dealt with more severely.[18]

WHEREFORE, we find respondent Desiderio W. Macusi, Jr., Sheriff IV, Regional Trial Court of Tabuk, Kalinga, Branch 25, **GUILTY** of **SIMPLE NEGLECT OF DUTY** and **VIOLATION OF THE CODE OF CONDUCT FOR COURT PERSONNEL** and impose on him the penalty of forfeiture of retirement benefits, except accrued leave credits, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

EN BANC

[A.M. No. RTJ-14-2388. June 10, 2014]
(Formerly OCA IPI No. 10-3554-RTJ)

EMILIE SISON-BARIAS, *complainant, vs.* **JUDGE MARINO E. RUBIA, REGIONAL TRIAL COURT [RTC], BRANCH 24, BIÑAN, LAGUNA and EILEEN A. PECAÑA, DATA ENCODER II, RTC, OFFICE OF THE CLERK OF COURT, BIÑAN, LAGUNA,** *respondents.*

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[18] See *Clemente v. Bautista,* A.M. No. P-10-2879, 3 June 2013, 697 SCRA 10; *Rojas, Jr. v. Mina,* A.M. No. P-10-2867, 19 June 2012, 673 SCRA 592.