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Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for three (3) months effective from the finality of this Resolution, and is **STERNLY WARNED** that a repetition of the same or similar act in the future shall be dealt with more severely.

Let a copy of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Further, let copies of this Resolution be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Perez, and *Reyes,*[*] *JJ.,* concur.

THIRD DIVISION

[A.M. No. P-13-3163. December 1, 2014]
(Formerly OCA IPI No. 12-3861-P)

MARCIDITO A. MIRANDA, *complainant, vs.* **ERNESTO G. RAYMUNDO, JR., Sheriff III, Metropolitan Trial Court, Branch 74, Taguig City,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; SHERIFFS; AS AGENTS OF THE LAW, HIGH STANDARDS ARE EXPECTED OF SHERIFFS; EXPLAINED.— Sheriffs play an important role in the

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[*] Designated Acting Member per Special Order No. 1892 dated November 28, 2014.

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administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. Sheriffs ought to know that they have a sworn responsibility to serve writs of execution with utmost dispatch. When writs are placed in their hands, it is their ministerial duty to proceed with reasonable celerity and promptness to execute them in accordance with their mandate. Unless restrained by a court order, they should see to it that the execution of judgments is not unduly delayed. Accordingly, they must comply with their mandated ministerial duty as speedily as possible. As agents of the law, high standards are expected of sheriffs.

2. ID.; ID.; SIMPLE NEGLECT OF DUTY, DEFINED; IMPOSABLE PENALTY; APPLICATION IN CASE AT BAR.— It is clear that despite the trial court's numerous directives to the respondent sheriff to implement the writ, the same remained unimplemented for more than four (4) years. In his Comment submitted before the OCA, respondent sheriff failed to offer any credible explanation as to why he has not enforced the writ all these years. There is no evidence presented to show that he exerted earnest efforts to implement the writ. For failing to satisfactorily implement the writ, respondent sheriff displayed conduct short of the stringent standards required of court employees. He is guilty of simple neglect of duty which is defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference. It is classified as a less grave offense punishable by suspension from office for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense. However, the Court, in several cases, also imposed the penalty of fine instead of suspension as an alternative penalty to prevent any undue adverse effect on public service which would ensue if work were otherwise left unattended by reason of respondent's suspension.

3. ID.; ID.; ID.; COURT PERSONNEL; SHERIFFS; IN ADMINISTRATIVE PROCEEDINGS, THE COMPLAINANT

BEARS THE *ONUS* OF ESTABLISHING, BY SUBSTANTIAL EVIDENCE, THE AVERMENTS OF HIS COMPLAINT.— As to the allegation that respondent sheriff received the amount of Ten Thousand Pesos (PhP10,000.00) in order to implement the writ of execution, there appears to be no substantial evidence to prove the same. In administrative proceedings, the complainant bears the *onus* of establishing, by substantial evidence, the averments of his complaint. Mere suspicion without proof cannot be the basis of conviction. In the instant case, complainant failed to discharge that burden.

D E C I S I O N

PERALTA, *J.*:

The instant administrative case arose from the complaint filed by Marcidito A. Miranda, charging respondent Ernesto G. Raymundo, Jr., Sheriff III of the Metropolitan Trial Court (*MeTC*) of Taguig City, Branch 74, of dereliction of duty.

The antecedents are as follows:

Complainant Marcidito A. Miranda filed a complaint[1] for unlawful detainer against defendant Joel Pido. After due proceedings, the MeTC, Branch 74, Taguig City, rendered a Decision[2] in favor of the complainant. In the said decision, defendant Pido and all persons claiming rights under him were ordered to vacate the property and to pay the costs of suit. The dispositive portion of said decision reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff Marcidito A. Miranda and against defendant Joel Pido, to wit:

1. Ordering defendant Joel Pido and all persons claiming rights under him to vacate and surrender possession of the property located in Franco St., DOTC Compound, Psd-016848, Purok 2-A, Lower Bicutan, Taguig City, measuring 300 square meters to the plaintiff; and

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[1] Docketed as Civil Case No. 2910, entitled *Marcidito A. Miranda v. Joel Pido.*

[2] *Rollo,* pp. 27-29.

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2. Ordering the defendant Joel Pido to pay the costs of suit.

SO ORDERED.[3]

Complainant, as plaintiff therein, then filed a motion for execution which was granted by the trial court on November 9, 2007.[4] Consequently, a Writ of Execution[5] was issued by the trial court on December 7, 2007. Herein respondent was the Sheriff assigned to implement the writ of execution. In his Sheriff's Return[6] dated February 8, 2008, respondent sheriff informed the trial court that despite the service of the writ to the defendant, the latter and all persons claiming rights under him, are still occupying the subject premises and refused to vacate the same.

Complainant alleged that on October 21, 2008, respondent sheriff, after having received the amount of Ten Thousand Pesos (PhP10,000.00) from him, returned to the subject property to enforce the writ. However, the wife of defendant Pido pleaded that they be allowed to stay in the subject premises until October 26, 2008. When the occupants failed to vacate the subject property on the agreed date, complainant Miranda approached respondent sheriff to seek the writ's enforcement anew. However, complainant Miranda was taken by surprise when respondent sheriff asked for another Six Thousand Pesos (PhP6,000.00). Since complainant could not produce the amount requested by the respondent sheriff, the writ was not implemented anew.

On July 23, 2010, complainant filed a Motion To Issue an *Alias* Writ of Execution, which the trial court granted on January 27, 2011.[7] Accordingly, an *Alias* Writ of Execution was issued on

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[3] *Id*. at 29.

[4] *Id*. at 19.

[5] *Id*. at 18.

[6] *Id*. at 35. (Note: the date appearing in the Sheriff's Return is "February 8, 11, 2008")

[7] *Id*. at 37-40.

February 4, 2011.[8] Complainant Miranda averred that he was assured by respondent sheriff that the writ would be implemented on March 4, 2011, but the date passed without any affirmative action from the latter. In his Sheriff's Return[9] dated March 25, 2011, respondent sheriff again informed the court that defendant Pido refused to vacate the property and padlocked the front door of their residence to avoid the implementation of the said writ.

Due to the foregoing, on February 10, 2012, complainant filed an *Ex Parte* Motion to Break Open with Motion for the Issuance of a Writ of Possession which was granted by the trial court on March 23, 2012.[10] Complainant alleged that respondent sheriff again failed to enforce the directives of the trial court, citing this time the absence of police officers and *barangay* officers. With the repeated and inexcusable failure of respondent sheriff to implement the writ, complainant decided to institute the present administrative complaint.

On April 23, 2012,[11] the Office of the Court Administrator (*OCA*) directed the respondent sheriff to comment on the complaint. In his Comment,[12] respondent sheriff denied the allegations that he received money from the complainant and that he refused to enforce the writ issued by the trial court.

On September 12, 2013,[13] the OCA recommended: that the instant administrative complaint be re-docketed as a regular administrative matter; respondent sheriff be found guilty of simple neglect of duty; and that a fine be imposed equivalent to his salary for two (2) months, with a stern warning that a repetition of the same offense shall be dealt with severely by the Court. The OCA found that while complainant failed to

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[8] *Id*. at 41-42.

[9] *Id*. at 43.

[10] *Id*. at 51.

[11] *Id*. at 46.

[12] *Id*. at 49-50.

[13] *Id*. at 53-56.

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adduce proof to substantiate his claim that respondent sheriff accepted money from him, the latter's inexcusable failure to implement the writ has been established.

The Court's Ruling

We agree with the conclusion of the OCA that respondent is guilty of simple neglect of duty for his failure to enforce the writ of execution issued by the trial court.

Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice.[14]

Sheriffs ought to know that they have a sworn responsibility to serve writs of execution with utmost dispatch. When writs are placed in their hands, it is their ministerial duty to proceed with reasonable celerity and promptness to execute them in accordance with their mandate. Unless restrained by a court order, they should see to it that the execution of judgments is not unduly delayed. Accordingly, they must comply with their mandated ministerial duty as speedily as possible. As agents of the law, high standards are expected of sheriffs.[15]

In the present case, the non-implementation of the writ of execution is undisputed. Records show that the trial court issued the writ of execution as early as December 7, 2007,[16] directing the respondent sheriff to cause the execution of the trial court's decision.[17] However, when respondent sheriff went

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[14] *Atty. Legaspi v. Tobillo,* 494 Phil. 229, 238 (2005).

[15] *Pesongco v. Estoya,* 519 Phil. 226, 241 (2006).

[16] *Rollo,* p. 18.

[17] *Id.*

to the subject premises to implement the writ, he failed to evict the *occupants* therein. The trial court then issued an *Alias* Writ of Execution on February 4, 2011[18] and a Break-Open Order on March 23, 2012. Nonetheless, respondent sheriff still failed to implement the trial court's decision.

It is clear that despite the trial court's numerous directives to the respondent sheriff to implement the writ, the same remained unimplemented for more than four (4) years. In his Comment submitted before the OCA, respondent sheriff failed to offer any credible explanation as to why he has not enforced the writ all these years. There is no evidence presented to show that he exerted earnest efforts to implement the writ.

For failing to satisfactorily implement the writ, respondent sheriff displayed conduct short of the stringent standards required of court employees. He is guilty of simple neglect of duty which is defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference.[19] It is classified as a less grave offense punishable by suspension from office for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense.[20] However, the Court, in several cases,[21] also imposed the penalty of fine instead of suspension as an alternative penalty to prevent any undue adverse effect on public service which would ensue if work were otherwise left unattended by reason of respondent's suspension.

As to the allegation that respondent sheriff received the amount of Ten Thousand Pesos (PhP10,000.00) in order to

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[18] *Id.* at 16-17.

[19] *Vargas v. Primo,* 566 Phil. 318, 323-324 (2008); *Pesongco v. Estoya, supra* note 14, at 242.

[20] Uniform Rules on Administrative Cases in the Civil Service, Sec. 52(B)(1).

[21] *Mendoza v. Esguerra,* A.M. No. P-11-2967 (Formerly OCA I.P.I. No. 08-2991-P), February 13, 2013, 690 SCRA 470; *Zamudio v. Auro,* 593 Phil. 575, 584 (2008).

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implement the writ of execution, there appears to be no substantial evidence to prove the same. In administrative proceedings, the complainant bears the *onus* of establishing, by substantial evidence, the averments of his complaint. Mere suspicion without proof cannot be the basis of conviction.[22] In the instant case, complainant failed to discharge that burden.

WHEREFORE, premises considered, respondent Ernesto G. Raymundo, Jr., Sheriff III, Metropolitan Trial Court, Branch 74, Taguig City, is **GUILTY** of Simple Neglect of Duty and is **FINED** in the amount equivalent to his salary for two (2) months. He is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Velasco, Jr. (Chairperson), Villarama, Jr., Mendoza,[*] and *Reyes, JJ.*, concur.

SPECIAL SECOND DIVISION

[G.R. No. 151258. December 1, 2014]

ARTEMIO VILLAREAL, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

[G.R. No. 154954. December 1, 2014]

PEOPLE OF THE PHILIPPINES, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS, ANTONIO**

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[22] *Judge Calo v. Dizon,* 583 Phil. 510, 524 (2008).

[*] Designated Acting Member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 1896 dated November 28, 2014.