



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 17, 2020** which reads as follows:*

**“A.M. No. P-19-3997 (formerly OCA IPI NO. 15-4521-P) — MARY ROSALIE S. BUENCONSEJO, CLARIBEL C. MENDOZA, GERALDINE I. AGUILAR, AND GRETA ALINABON, complainants, versus MICHAEL NIÑO C. OLIVAR, PROCESS SERVER, MUNICIPAL TRIAL COURT, DALAGUETE, CEBU, respondent.**

This is an administrative case against Michael Niño C. Olivar (Olivar), Process Server in the Municipal Trial Court (MTC), Dalaguete, Cebu for Misconduct, Dishonesty, and Conduct Prejudicial to the Best Interest of the Service.

The present administrative matter arose from a verified Letter-Complaint<sup>1</sup> dated November 10, 2015 and Complaint-Affidavit<sup>2</sup> dated February 2, 2016 filed by court personnel of the MTC, Dalaguete, Cebu, namely: Mary Rosalie S. Buenconsejo (Buenconsejo), Claribel C. Mendoza (Mendoza), Geraldine L. Aguilar, and Greta L. Alinabon (complainants).

They complained of Olivar’s hostile behavior in the workplace as demonstrated by his discourteous conduct in dealing with his co-employees and his superior, Presiding Judge Thelma N. Delos Santos (Judge Delos Santos); arrogance in his knowledge of the law and in his educational background; and his resistance to lawful orders and unwillingness to accept correction. According to them, Olivar’s recalcitrant attitude created a rift in the office, which disrupted their harmonious relationships. As a result, most of the employees avoided him so as not to exacerbate the tense atmosphere in the office.

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<sup>1</sup> *Rollo*, Vol. 1, pp. 1-3.

<sup>2</sup> *Id.* at 5-8.

Complainants narrated that during a staff meeting called by Judge Delos Santos to verify and discuss the dispute between them and Olivar, the latter allegedly behaved in a disrespectful manner towards Judge Delos Santos by talking back in a raised voice. He was impertinent in his answers to the questions propounded to him, insisting that he did no wrong. Olivar also filed an administrative complaint before the Executive Judge of the Regional Trial Court of Argao, Cebu, against Judge Delos Santos for giving him an "Unsatisfactory"<sup>3</sup> rating during the performance evaluation for the period July to December 2014. Since then, the hostility in the office worsened.

In the Complaint-Affidavit, complainants added that: (1) Olivar did not help in transferring office materials and equipment when they relocated to another office; (2) he took pictures of their logbooks, wall clocks, and even court records; and (3) he insisted that he arrived in the office at 1:00 P.M. on January 6, 2016 when in fact he arrived at 1:14 P.M.

In his Reply<sup>4</sup> dated February 26, 2016, Olivar denied the allegations and made counter-charges against complainants and Judge Delos Santos accusing them of conspiring with one another to file the present administrative case for the purpose of harassing and making false accusations against him. According to him, complainants forced him to issue and sign official receipts to litigants transacting with the court and would get mad at him if he refused to follow their instructions. He did not heed the demands of complainants because Judge Delos Santos and Clerk of Court Cynthia B. Cartilla (Clerk of Court Cartilla) ordered him not to interfere in the financial transactions of the court, as it would be tantamount to usurpation of official functions.

Olivar also denied that he is boastful and arrogant, or that he always wanted to be recognized for his opinions on legal matters because he is a mere Process Server. Instead, he pointed to Mendoza as the one who would usually interrupt during conversations.

Olivar likewise claimed that it is Judge Delos Santos who has an attitude problem. Many people in Dalaguete, Cebu do not like her because of her bad temper, especially during court proceedings. In fact, he reported Judge Delos Santos to the Dalaguete Police Station for grave threats, as shown in the Certification dated October 7, 2015 issued by Police Officer 2 Leo M. Gesim.

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<sup>3</sup> Id. at 1, 6.

<sup>4</sup> Id. at 16-31.

Finally, Olivar maintained that all accusations against him are false and fabricated, and that nothing in the records would show that he is predisposed to do the acts complained of. To support his claim, he submitted a Certification dated November 2, 2015 issued by Clerk of Court Cartilla stating that he has religiously performed his job as a Process Server.

**Investigation, Report,  
and Recommendation of  
Investigating Judge**

In a Resolution<sup>5</sup> dated November 29, 2017, the Court referred the present administrative case to Judge Francis Rainier R. Navarrete (Investigating Judge Navarrete) for investigation, report, and recommendation.

In his Report,<sup>6</sup> Investigating Judge Navarrete held that the facts and evidence established during the investigation do not sufficiently support the charges of Dishonesty, Misconduct, and Conduct Prejudicial to the Best Interest of the Service. According to him, “[t]he proven acts and actuations of respondent boil down to his difficult and trying personality – but objectively, in the context of where the parties are coming from – fall short of the above definitions”<sup>7</sup> and the characterizations of the administrative offense charged against the latter. Investigating Judge Navarrete, therefore, recommended that Olivar be admonished to keep his attitude in check, avoid annoying his co-workers and court users, and constantly strive to be forthright with everyone; and warned that similar complaints in the future shall be dealt with more severely.

**Office of the Court  
Administrator (OCA)  
Recommendation**

In its Memorandum<sup>8</sup> dated June 6, 2019, the OCA agreed with Investigating Judge Navarrete that there was no substantial evidence of the charges for Misconduct, Dishonesty, and Conduct Prejudicial to the Best Interest of the Office. Rather, the facts established reflected the poor behavior of Olivar and his inability to maintain harmonious relationships with his superior, fellow court personnel, and other employees of the government with whom he transacted. As testified

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<sup>5</sup> Id. at 86-87.

<sup>6</sup> *Rollo*, Vol. II, pp. 172-186.

<sup>7</sup> Id. at 185.

<sup>8</sup> Id. at 187-193.

by Ms. Estelita B. Ceballos, Olivar always demanded to be served immediately every time he went to the Office of the Municipal Civil Registrar to register Certificates of Marriage solemnized by Judge Delos Santos, even if there were people ahead of him. Mr. Edwin B. Balbuena, a former court employee of the MTC, Dalaguete, Cebu, also characterized Olivar as difficult to deal with. He admitted that he had an altercation with Olivar regarding the service of summons on a police officer who moved to another station, but their rift was amicably settled before the Barangay Lupon. More telling is the testimony of Buenconsejo that their co-employees “are not also comfortable with [Olivar] because of his attitude and behavior”<sup>9</sup> and that the latter disrespected Judge Delos Santos during one of their staff meetings to address the discord in the office. Olivar admitted that a meeting between him and his accusers took place, which was presided by Judge Delos Santos. According to Buenconsejo, Olivar talked back to Judge Delos Santos and raised his voice.

The OCA held that the totality of the evidence substantially proved that Olivar committed Simple Discourtesy in the performance of official duties, in violation of Section 2, Canon IV of the Code of Conduct for Court Personnel, which provides that “[c]ourt personnel shall carry out their responsibilities as public servants in as courteous a manner as possible.” Simple Discourtesy is classified as a light offense under the 2017 Rules on Administrative Cases in the Civil Service and is punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from service for the third.

Thus, the OCA recommended that Olivar be held liable of Simple Discourtesy and be REPRIMANDED and STERNLY WARNED that a repetition of the same or similar acts shall be dealt with more severely.

The Court adopts the OCA’s recommendations.

The circumstances in the instant case support the charge of Simple Discourtesy. The Court affirms the Memorandum of the OCA which in turn, had affirmed the recommendation of the Investigating Judge Navarrete that there is no substantial evidence to establish the charges of Dishonesty, Simple Misconduct, and Conduct Prejudicial to the Best Interest of the Service.

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<sup>9</sup> Id. at 183; italics omitted.

Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray, or intent to violate the truth.<sup>10</sup> Simple misconduct is a transgression of some established rule of action, an unlawful behavior, or negligence committed by a public officer.<sup>11</sup> Lastly, conduct is prejudicial to the interest of the service if it violates the norm of public accountability and diminishes — or tends to diminish the people's faith in the Judiciary.<sup>12</sup> The acts imputed against Olivar and the evidence presented failed to establish the charges for the aforementioned offenses.

However, the facts established reflected Olivar's difficult behavior and inability to maintain harmonious relationships with his superior, fellow court employees, and employees of other government agencies with whom he transacted. For this, Olivar is held guilty of Simple Discourtesy in the Performance of Official Duties in violation of Section 2, Canon IV of the Code of Conduct for Court Personnel.<sup>13</sup>

Under Section 50(F), Rule 10 of Rules on Administrative Cases in the Civil Service,<sup>14</sup> Simple Discourtesy in the Course of Official Duties is classified as a Light Offense punishable with reprimand for the first offense, suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense. As this is Olivar's first offense, reprimand is the proper penalty.

**WHEREFORE**, in view of the foregoing, the Court finds **MICHAEL NIÑO C. OLIVAR GUILTY** of Simple Discourtesy in the Course of Official Duties and be **REPRIMANDED** and **STERNLY WARNED** that a repetition of the same or any similar offense shall warrant the imposition of a more severe penalty from the Court.

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<sup>10</sup> *Fajardo v. Corral*, G.R. No. 212641, July 5, 2017, 830 SCRA 161, 169.

<sup>11</sup> *Campos v. Campos*, A.M. No. MTJ-10-1761, February 8, 2012, 665 SCRA 238, 245.

<sup>12</sup> *Office of the Court Administrator v. Sidro*, A.M. No. P-17-3655, August 20, 2019, p. 4.

<sup>13</sup>

**CANON IV**

**PERFORMANCE OF DUTIES**

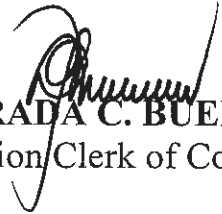
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SEC. 2. Court personnel shall carry out their responsibilities as public servants in as courteous a manner as possible. (A.M. No. 03-06-13-SC, April 13, 2004.)

<sup>14</sup> CSC Resolution No. 1701077, July 3, 2017.

**SO ORDERED.”**

Very truly yours,



**LIBRADA C. BUENA**  
Division Clerk of Court \* H/O

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Ms. Mary Rosalie S. Buenconsejo  
Court Interpreter I  
Ms. Claribel C. Mendoza  
Court Stenographer I  
Ms. Greta L. Alinabon  
Utility I  
Complainants  
Municipal Trial Court  
Dalaguete, 6022 Cebu

Ms. Geraldine I. Aguilar  
Complainant  
1-32 Compound, Climaco Street  
St. Jude Acres, Bulacao  
6000 Cebu City

Hon. Francis Rainier R. Navarrete  
Executive Judge  
Regional Trial Court, Branch 93  
Argao, 6021 Cebu

Mr. Michael Niño C. Olivar  
Respondent – Process Server  
Municipal Trial Court  
Dalaguete, 6022 Cebu

The Hon. Presiding Judge  
Municipal Trial Court  
Dalaguete, 6022 Cebu

Hon. Jose Midas P. Marquez (x)  
Court Administrator  
Hon. Raul B. Villanueva (x)  
Hon. Jenny Lind R. Aldecoa-Delorino (x)  
Hon. Leo Tolentino Madrazo (x)  
Deputy Court Administrators  
Hon. Lilian Barribal-Co (x)  
Hon. Maria Regina A. F. M. Ignacio (x)  
Assistant Court Administrators  
OCA, Supreme Court

Office of Administrative Services (x)  
Legal Office (x)  
Court Management Office (x)  
Financial Management Office (x)  
Docket & Clearance Division (x)  
OCA, Supreme Court

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