



Republic of the Philippines  
Supreme Court  
Cagayan de Oro City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 6, 2023** which reads as follows:*

**“JIB FPI No. 21-062-P (Hubert Dela Serna Gador v. Joely G. Lim, Sheriff IV and Acting Clerk of Court, Branch 28, Regional Trial Court, Midsayap, Cotabato).** — For the Court’s resolution is a Complaint<sup>1</sup> filed by complainant Hubert Dela Serna Gador (complainant) against respondent Joely G. Lim (respondent), Sheriff IV and Acting Clerk of Court, of Branch 28, Regional Trial Court of Midsayap, Cotabato for Conduct Prejudicial to the Public Service, Discourtesy, Conduct Unbecoming of Public Officer, and Dereliction of Duty.

**Antecedents**

The facts of this case, as found by the Office of the Executive Director (OED) of the Judicial Integrity Board (JIB), are as follows:

Complainant [Hubert Dela Serna] Gador avers that on 06 May 2021, he went to the Office of the Clerk of Court, RTC, Midsayap Cotabato to request a copy of the pleadings filed by his counsel, Pasok and Pasok, Baquiran Law Offices. However, upon approaching respondent Sheriff Lim’s table and signifying his intention, the latter stared at him and raised his voice, saying “Go to your lawyer.” Despite his explanation that he was the principal complainant, respondent Sheriff Lim still refused his request. As he was leaving the premises, he heard some court employees laughing at him. Complainant Gador felt humiliated by the incident.

Complainant Gador also imputed dereliction of duty on the part of respondent Sheriff Lim (and Presiding Judge Osua) when he belatedly received notices of hearings, causing him to fail to appear thereat.

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<sup>1</sup> Rollo, pp. 2-4.

In his **COMMENT** dated 10 March 2022, respondent Sheriff Lim explained that on 03 March 2021, complainant Gador went to court and said that he was requested by his counsel to get a copy of the defendant's Comment on the Motion for Reconsideration in Special Civil Case No. 18-002. He was informed by the court personnel to tell his counsel to make a written request, since it is their policy not to release any document to anybody, litigants or counsels alike, unless there is a written request. Thereafter, on 03 May 2021, complainant Gador's counsel, Atty. Maria Angela Pasok Baquiran, sent an e-mail to their office with a request for a copy of the Comment. On 04 May 2021, respondent Sheriff Lim furnished said counsel through e-mail a copy of the requested Comment on the Motion for Reconsideration.

On 06 May 2021, complainant Gador went to court and asked for a copy of the Comment. The two clerks of Branch 28 informed him that Atty. Baquiran was already furnished through e-mail a copy of the requested Comment. However, complainant Gador got angry, uttered insulting words, arrogantly said that he has the right to be given a copy as a litigant, and rudely said "Justice delayed, justice denied." Despite being informed by the clerks to make a written request, he continued with his demeaning remarks against the clerks, prompting them to ask help from respondent Lim. He told complainant Gador that he had already furnished his counsel a copy of the Comment and advised him to coordinate with her. Still, complainant Gador angrily insisted that he did not want to go to his counsel's office, saying it was too far. Respondent Sheriff Lim told him to just make a written request, so as to make any transaction recorded and filed. Yet, complainant Gador continued being discourteous and insulted the court personnel. Respondent Sheriff Lim attempted to call Atty. Baquiran but failed due to poor connection, thus, they opted to send her text messages.

Respondent Sheriff Lim denies that he stared at and raised his voiced against complainant Gador. In the first place, complainant Gador could not have approached his table since litigants and other visitors are not allowed inside the office for health reasons due to the ongoing pandemic. All transactions can only be done by the visitors outside the office through an open glass window with two-way microphones. Such set-up further belies complainant Gador's claim that he was laughed at by court employees when he allegedly passed them, since the latter are inside the office, and the only employees directly in front of him through the glass window counter were the two clerks inside the office. On the contrary, it was complainant Gador who insulted court employees and who violently insisted that his demand be given without any written request.

Respondent Sheriff Lim likewise clarifies that it is the process server, and not he, who is in charge of the preparation of the notices of hearings and the service thereof. Still, he asserts that he constantly reminds the personnel to do their jobs well and on time. Moreover, it is the post office that has control over the delivery of the notices. Besides, he insists that complainant Gador's counsel was duly notified of the scheduled hearings either in open court or through mail.<sup>2</sup>

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<sup>2</sup> Id. at 56-58.

### **Report and Recommendation of the OED**

The OED found the Complaint devoid of merit and recommended its dismissal. It held that complainant failed to substantiate his allegations with any evidence other than his bare assertions. The OED also pointed out that there was nothing inherently offensive with the court personnel telling complainant to talk to his lawyer. It noted respondent's explanation that due to the pandemic, the court had installed a glass window and two-way microphone on the counter. This might have caused respondent to raise his voice to be heard, which complainant mistook for the former raising his voice in anger. The OED gave more credence to respondent's narration of the incident, especially since the same was supported by the affidavits of the two clerks whom complainant spoke to, as well as email and text correspondences between the court and complainant's counsel.<sup>3</sup>

Meanwhile, the OED also found complainant's allegation as to late notices to be devoid of merit. Respondent presented proof, in the form of court Orders, to establish that complainant and his counsel were informed of the hearing dates either in open court or through email.<sup>4</sup>

### **Report of the JIB**

The JIB, in its Report<sup>5</sup> dated 17 August 2022, agreed that complainant's allegations were unsupported by substantial evidence. In contrast, respondent presented the affidavits of his witnesses to support his narration of events. It reiterated that complainant bears the burden of proving the allegations in his complaint, which he failed to do in this case.

### **Issue**

The issue in this case is whether respondent can be held administratively liable for Conduct Prejudicial to the Public Service, Discourtesy, Conduct Unbecoming of a Public Officer, and Dereliction of Duty.

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<sup>3</sup> Id. at 58.

<sup>4</sup> Id.

<sup>5</sup> Id. at 60-65. Penned by Justice Rodolfo A. Ponferrada (Ret.).

### **Ruling of the Court**

The Complaint is **DISMISSED** for lack of merit.

The quantum of evidence required in administrative cases such as the present is substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.<sup>6</sup> The burden of proof that respondent committed the acts complained of rests on the complainant. Thus, if a complainant, upon whom rests the burden of proving his or her cause of action, fails to show in a satisfactory manner the facts upon which he or she bases his or her claim, the respondent is under no obligation to prove his or her exception or defense.<sup>7</sup>

Herein complainant clearly failed to discharge the burden to present substantial evidence of respondent's alleged infraction. Apart from his bare assertions, complainant did not proffer any other proof to support his allegations. This is especially important in this case where his version of the incident is contested by respondent.

In contrast, respondent presented evidence to support his explanation for what transpired. The sworn affidavits of the two clerks who spoke to complainant at the counter corroborate respondent's narration. The copies of the text messages with complainant's counsel also support their claim that they confirmed with the lawyer that they had already emailed her a copy of the pleadings complainant sought. Further, respondent countered the allegation of late notices by submitting orders of the RTC that complainant and/or his counsel were informed of the hearing schedules for his case.

In sum, complainant has not established by substantial evidence that respondent's act amounts to conduct prejudicial to the public service, discourtesy, conduct unbecoming of a public officer, or dereliction of duty.

**WHEREFORE**, premises considered, the present administrative Complaint against respondent Joely G. Lim is **DISMISSED**.

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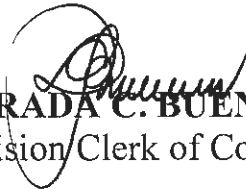
<sup>6</sup> *Office of the Court Administrator v. Sarabia, Jr.*, A.M. No. P-15-3398, 12, July 2022, citing *Miro v. Vda. De Erederos*, 721 Phil. 772, 788 (2013).

<sup>7</sup> See *Tan v. Usman*, 741 Phil. 142,148 (2014), citing *Reyes v. Judge Mangino*, 490 Phil. 444, 455-456 (2005).



**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**158-A**

**APR 04 2023**

Mr. Hubert Dela Serna Gador  
Complainant  
Katitisan, Libungan  
9411 Cotabato

Mr. Joely G. Lim  
Respondent – Sheriff IV & Acting Clerk of Court  
Regional Trial Court, Branch 28  
Midsayap, 9410 Cotabato

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

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Hon. Angelina Sandoval-Gutierrez (x)  
Hon. Sesinando E. Villon (x)  
Hon. Rodolfo A. Ponferrada (x)  
Hon. Cielito N. Mindaro-Grulla (x)  
Office of the Executive Director (x)  
Office of the General Counsel (x)  
Atty. James D.V. Navarrete (x)  
Deputy Clerk of Court-at-Large  
Judicial Integrity Board  
Supreme Court

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Assistant Court Administrators  
OCA, Supreme Court

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Supreme Court

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