



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 10-06
June 2010

Judges: Simple misconduct

A judge must not sacrifice the orderly administration of justice in favor of a speedy but reckless disposition of a case. A prudent judge should ascertain the facts before reaching conclusions and issuing orders.

Respondent judge did not bother to look into the reason for the non-appearance of the parties or the basis for the request of the mediator for resetting. He chose to ignore the request for resetting and immediately ordered the dismissal of the civil case referred to the mediator. His action is contrary to the policy that the judge referring the case to mediation should extend to the mediator every possible support and assistance. Courts and litigants should give the mediation process a fair chance to work in order for mediation to become an effective tool in facilitating amicable settlement of cases.

For simple misconduct, respondent was fined P10,000.00. **A.M. No. RTJ-36-2025, April 5, 2010**

Clerks of Court: Gross Neglect of Duty

Paragraph 1.3.1.5 (d.1), Section E, Chapter VI of the 2002 Revised Manual for Clerks of Court, outlines the requirements for the approval of bail bonds posted in the courts, as follows:

In accepting surety bond, the Clerk of Court should see to it that the following requisites are complied with, otherwise, the bond should be rejected:

(1) Photographs of accused

It shall be obligatory on the part of the surety and bonding companies issuing such bond to attach photographs (face, left and right profiles), passport size, recently taken of the accused on all of the corresponding personal bail bond to be issued or posted.

(2) Affidavit of justification

The bond shall be accompanied by an affidavit of justification to include a statement to the effect that the company has no pending obligation demandable and outstanding in any amount to the Government or any of its agencies as of the last day of the month preceding the date the bond is issued or posted.

(3) Clearance from the Supreme Court

Every bond shall be accompanied by a clearance from the Supreme Court showing that the company concerned is qualified to transact business which is valid only for thirty (30) days from the date of its issuance.

(4) Certificate of compliance with the Circular from the Office of the Insurance Commissioner

The bond shall be accompanied by a verified certification to the effect that the bond form used has been duly registered with the Insurance Commission; that the same has been entered and recorded in the Bond Registry Book of the company concerned in compliance with OIC Circular No. 66 dated September 19, 1966, and that the said bond has not been cancelled.

(5) Authority of agent

In case the bond is issued through a branch office or through an agent, a copy of the authority or power of attorney shall be submitted to the Clerk of Court for filing, together with the schedule of limits of its authority.

(6) Current certificate of authority

The bond shall be accompanied by a current certificate of authority issued by the Insurance Commission with the financial statement (OIC Form No. 1) showing the maximum underwriting capacity of the company.

(7) Procedure

All applications for bail/judicial bonds, before their approval by the Judge concerned, shall be coursed thru the Clerk of Court or his duly authorized personnel who shall see to it that the bond is in order and the signature of the bonding officer authentic before affixing his signature thereto. He shall also indicate therein the outstanding liability of the bonding company, if any, for the information and guidance of the Court. For this particular purpose, the Clerk of Court shall keep a file of specimen signature of authorized bonding officers, to prevent the submission of "fake bail bond."

Respondent clerk of court failed to perform her duties as required in said Manual for Clerks of Court. She did not see to it that the bonds were in order before forwarding them to her judge for approval. Her passing on the blame to her subordinates did not justify her failure to ensure that all the bonds approved by the judge were in order.

For gross neglect of duty respondent clerk of court was suspended for two (2) months without pay. **(A.M. No. MTJ-04-1558, April 7, 2010)**

Sheriff: Misconduct

In administrative proceedings, the complainant has the burden of proving the allegations in his complaint with substantial evidence, and in the absence of evidence to the contrary, the presumption is that respondent has regularly performed his duties. Bare allegations of misconduct cannot prevail over the presumption of regularity in the performance of official function.

Complainant's allegations of hasty implementation of the writ of execution by the respondent sheriff lack merit. When a writ is placed in the hands of a sheriff, it becomes his ministerial duty to implement it in accordance with its mandate. This duty, in the proper execution of a valid writ, is not just directory, but mandatory. The sheriff has no discretion whether to execute the writ or not.

Respondent sheriff was found innocent of the charges against him which were based on mere suspicion and speculation. **(A.M. No. P-06-2224, April 30, 2010)**

Clerk: Use of dangerous drugs

In A. M. No. 06-1-01-SC, dated January 17, 2006, the Supreme Court adopted guidelines for a program to deter the use of dangerous drugs and institute preventive measures against drug abuse for the purpose of eliminating the hazards of drug abuse in the Judiciary, particularly in the first and second level court.

Respondent clerk never challenged the authenticity of the Chemistry Report of the Provincial Crime Laboratory Office finding him positive for drug abuse. His general denial cannot prevail over the compelling evidence in the chemistry report.

Respondent's use of prohibited drugs has greatly affected his efficiency in the performance of his duties to the prejudice of the service.

For drug abuse and for refusal to comply with the directive of the Court for him to submit his explanation/comment on the charges against him, respondent was dismissed from the service. **(A.M. No. P-08-2535, June 23, 2010)**

Philippine Judicial Academy***Chancellor****Adolfo S. Azcuna****Founding Chancellor Emeritus****Ameurфина A. Melencio Herrera****Head, Research, Publication and Linkages Office (RPLO)****Prof. Sedfrey M. Candelaria****Editors****Dean Eulogia M. Cueva**Atty. Orlando B. Cariño****Staff****Nennette G. Zaldivar**Rodrigo G. Javier*

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621
E-mail address: research_philja@yahoo.com. For link to e-library: www.supremecourt.gov.ph.

If you have any Fax No. or E-mail address, please let us know so we could send the "Alerts" direct to you.