



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 125-2014

**TO: EXECUTIVE / PRESIDING JUDGES, CLERKS
OF COURT / OFFICERS-IN-CHARGE /
ACCOUNTABLE OFFICERS OF THE FIRST
AND SECOND LEVEL COURTS**

**SUBJECT: A.M. NO. 11-10-03-0 (RE: LETTER DATED
APRIL 18, 2011 OF CHIEF PUBLIC
ATTORNEY PERSIDA RUEDA-ACOSTA
REQUESTING EXEMPTION FROM THE
PAYMENT OF SHERIFF'S EXPENSES)**

In the 30 July 2013 Resolution in **A.M. No. 11-10-03-0** (*Re: Letter dated April 18, 2011 of Chief Public Attorney Persida Rueda-Acosta Requesting Exemption from the Payment of Sheriff's Expenses*), the Supreme Court En Banc DENIED the request of Atty. Persida V. Rueda-Acosta for the exemption of the clients of the Public Attorney's Office (PAO) from the payment of sheriff's expenses.

Relevant portions of the Resolution explicitly provide:

That Section 6 of R.A. No. 9406 exempts PAO's clients from the payment of "docket and other fees incidental to instituting an action in court and other quasi-judicial bodies" is beyond cavil. **However, contrary to Atty. Acosta's claim, a plain reading of the said provision clearly shows that the exemption granted to PAO's clients cannot be extended to the payment of sheriff's expenses; the exemption is specifically limited to the payment of fees, i.e., docket and other fees incidental to instituting an action.**

The term “fees” is defined as a charge fixed by law or by an institution for certain privileges or services. Viewed from this context, the phrase “docket and other fees incidental to instituting an action” refers to the totality of the legal fees imposed under Rule 141 of the Rules of Court. In particular, it includes filing or docket fees, appeal fees, fees for issuance of provisional remedies, mediation fees, sheriff's fees, stenographer's fees and commissioner's fees. These are the fees that are exacted for the services rendered by the court in connection with the action instituted before it.

Sheriff's expenses, however, cannot be considered as a “fee” within the purview of the exemption granted to PAO's clients under Section 6 of R.A. 9406. Sheriff's expenses are provided for under Section 10, Rule 141 of the Rules of Court, *viz*:

Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes. -

x x x x

In addition to the fees hereinabove fixed, the amount of ONE THOUSAND (P1,000.00) shall be deposited with the Clerk of Court upon filing of the complaint **to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case.** In case the initial deposit of ONE THOUSAND (P1,000.00) PESOS is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court authorized person shall submit to the court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the Clerk of Court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the court for approval. After rendition of judgment by the court, any excess from the deposit shall be returned to the party who made the deposit.

x x x x (Emphasis ours)

Sheriff's expenses are not exacted for any service rendered by the court; they are the amount deposited to the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. **It is not the same as sheriff's fees under Section 10, Rule 141 of the Rules of Court, which refers to those imposed by the court for services rendered to a party incident to the proceedings before it.**

Thus, in *In Re: Exemption of Cooperatives from Payment of Court and Sheriff's Fees Payable to the Government in Actions Brought Under R.A. 6938*, the Court clarified that sheriff's expenses are not considered as legal fees, ratiocinating that:

The difference in the treatment between the sheriff's fees and the sheriff's expenses in relation with the exemption enjoyed by cooperatives is further demonstrated by the wording of Section 10, Rule 141, which uses "fees" in delineating the enumeration in the first paragraph, and "expenses" in qualifying the subsequent paragraphs of this provision. The intention to make a distinction between the two charges is clear; otherwise, the Rules would not have used different designations. Likewise, the difference between the two terms is highlighted by a consideration of the phraseology in the first sentence of the second paragraph of Section 10, Rule 141, which uses the clause "*in addition to the fees hereinabove fixed,*" thereby unequivocally indicating that sheriff's expenses are separate charges *on top* of the sheriff's fees. (Italics supplied)

The Court, however, is not unmindful of the predicament of PAO's clients. In exempting PAO's clients from paying docket and other legal fees, R.A. No. 9406 intended to ensure that the indigents and the less privileged, who do not have the means to pay the said fees, would not be denied access to courts by reason of poverty. **Indeed, requiring PAO's clients to pay sheriff's expenses, despite their exemption from the payment of docket and other legal fees, would effectly fetter their free access to the courts thereby negating the laudable means of Congress in enacting R.A. No. 9406.**

X X X X

Having the foregoing principles in mind, the Court, heeding the constitutional mandate of ensuring free access to the courts and adequate legal assistance to the marginalized and less privileged, hereby authorizes the officials and employees of PAO to serve summons, subpoena, and other court processes pursuant to Section 3, Rule 14 of the Rules of Court. The authority given herein by the Court to the officials and employees of PAO shall be limited only to cases involving their client.

Authorizing the officials and employees of PAO to serve the summons, subpoenas and other court processes in behalf of their clients would relieve the latter from the burden of paying for the sheriff's expenses despite their non-exemption from the payment thereof under Section 6 of R.A. No. 9406. The amount to be defrayed in the service of summons, subpoena and other court processes in behalf of its clients would consequently have to be taken from the operating expenses of PAO. In turn, the amount advanced by PAO as actual travel expenses may be taken from the amount recovered from the adversaries of PAO's clients as costs of suit, attorney's fees or contingent fees prior to the deposit thereof in the National Treasury.

WHEREFORE, in consideration of the foregoing disquisitions, the Second Motion for Reconsideration filed by Atty. Persida V. Rueda-Acosta is **DENIED**. The Court's Resolution dated November 22, 2011, and April 24, 2012 are hereby **AFFIRMED**. The request of Atty. Persida V. Rueda-Acosta for the exemption of the clients of the Public Attorney's Office from the payment of sheriff's expenses is **DENIED**.

Nevertheless, the officials and employees of the Public Attorney's Office are hereby **AUTHORIZED** to serve summons, subpoenas and other court processes in behalf of their clients pursuant to Section 3, Rule 14 of the Rules of Court, in coordination with the concerned court. The amount to be defrayed in serving the summons, subpoenas and other court processes could be taken from the operating expenses of the Public Attorney's Office which, in turn, may be taken from the amount recovered by it from the adversaries of PAO's clients as costs of suit, attorney's fees or contingent fees prior to the deposit thereof in the National Treasury, or damages that said clients may be decreed as entitled to in case of the success of PAO's indigent clients.

SO ORDERED. (Emphasis added)

For your information, guidance and strict compliance.

24 September 2014

JOSE MIDAS P. MARQUEZ
Court Administrator