

TERESITA RETAZO COMPLAINANT, LORNA A. VERDON, CLERK OF COURT, MCTC, DON CARLOS, BUKIDNON, RESPONDENT.*A.M. No. P-04-1807 [Formerly OCA-I.P.I. No. 03-1714-P]. December 23, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7cf473aa80cc/>**PER CURIAM:**

This is a consolidation of two administrative matters against respondent Lorna A. Verdon, Clerk of Court of the Municipal Circuit Trial Court (MCTC), Don Carlos-Kitaotao-Dangcagan, Bukidnon. A.M. No. P-02-1653 refers to respondent's shortages in the cash collection of the court, while A.M. No. P-04-1807 concerns the affidavit-complaint dated 4 June 2003 filed by Teresita Retazo (complainant) charging respondent with Malversation of Public Funds.

A.M. No. P-02-1653 started as a report^[1] dated 5 September 2002 of then Deputy Court Administrator Christopher O. Lock on the financial accountabilities of respondent. On 8 September 1998, Acting Presiding Judge Florentina R. Villanueva had requested an investigation in view of the missing cashbook and passbook for the Fiduciary Fund, receipts, and other anomalies unearthed by Commission on Audit (COA) representatives when they conducted an audit. On 11 September 1998, the Fiscal Monitoring Division-Court Management Office (FMD-CMO) of the Office of the Court Administrator (OCA) directed respondent to submit the necessary documents such as official cashbooks, validated

duplicate copies of deposit slips, passbooks, for audit and reconciliation of her books of accounts. Respondent submitted only photocopies of the required documents. The FMD required respondent to submit the original copies of the documents. Respondent was not able to submit all the originals of the required documents and was warned that her non-compliance could result in the withholding of her salaries. As she still failed to comply, on 10 April 2001, the salaries and other allowances of respondent were withheld upon recommendation of the OCA.

On 19 July 2001, the Office of the Auditor of the COA's Provincial Revenue Audit Group-Bukidnon sent respondent a letter^[2] informing her that examination of her cash accounts revealed that there was a shortage of P238,220.00, and that there were still official receipts that were missing and unaccounted for. Respondent was required to explain the shortages and produce the missing funds. In her reply^[3] dated 20 July 2001, respondent explained that "[she had] been trying [her] very best to replenish the said amount as soon as possible"^[4] and requested time to produce the amount.

In the resolution of 18 November 2002,^[5] the Court directed respondent, among other things, to explain why no administrative sanction shall be imposed on her for her continued failure to comply with the requirements needed to establish her cash accountabilities, and to submit all the documents required by the FMD-CMO. In the same resolution, respondent was suspended from office pending resolution of the case.

Meanwhile, on 4 June 2003, complainant filed the affidavit-complaint^[6] against respondent charging her with Malversation of Public Funds. Complainant claimed that she deposited with respondent the amount of thirty thousand pesos (P30,000.00) to secure the provisional liberty of accused Juanito Retazo in Criminal Case No. 10586-2000. The criminal case was decided with the accused being acquitted and the posted bail ordered to be

returned. However, complainant was not able to collect the amount because respondent had been under suspension and the amount of the funds in her custody as deposited in the Landbank account was only P2,052.16.

On 24 July 2003, respondent was required to comment on the affidavit-complaint but she failed to comply with the directive. Thus, in the resolution of 14 May 2004,[7] respondent was deemed to have waived her right to put up a defense and the case was re-docketed as a regular administrative matter.

On 28 February 2005, the two administrative cases were consolidated.[8]

As respondent still failed to submit all the documents required by the FMD-CMO, on 1 June 2005, the Court required respondent to show cause why she should not be disciplinarily dealt with or held in contempt of court for such failure.[9] Respondent again did not comply. Thus, in the resolution of 19 July 2006,[10] the Court imposed upon her a fine of P1,000.00 or a penalty of imprisonment of five (5) days if said fine is not paid. However, no response was ever received from respondent.

In the Memorandum[11] dated 3 October 2008 submitted by the OCA, it is noted that the evaluation of these administrative cases was delayed because of respondent's repeated failure to comment and defend herself and submit the required documents. Respondent's refusal to cooperate in the investigation of these cases should not impede their resolution. Thus, these matters shall be decided based on the pleadings already filed.

Based on the examination of the cash account of respondent as Clerk of Court II, on 19 July 2001, the COA audit team found a shortage of P238,220.00 in the fiduciary account of MCTC, Don Carlos, Bukidnon, broken down as follows per the letter dated 19 July 2001:[12]

Collections

Accountability:

Balance shown by your cashbook on 19 July 2001 certified correct by you and verified by us - Fiduciary Fund

P325,604.74

Credits to Accountability: Cash in Bank

P87,384.74

Cash and valid cash items produced by you and counted by us

- 0 -

Shortage

P238,220.00

In her reply to the COA's letter of 19 July 2001, respondent indicated that she would replenish the shortage.[13] The OCA believes that this should be deemed an admission on respondent's part that she misappropriated the amount of P238,220.00 since she would not have made a promise to replenish the same if she had not spent the fiduciary account of the court for herself. Thus, the OCA recommends that the misappropriated amount of P238,220.00 should be deducted from respondent's withheld salaries. The amount of P30,000.00 representing the money claim of complainant in Criminal Case No. 10586-2000 should also be deducted from the withheld salaries as said amount forms part of the money misappropriated by respondent. In a memorandum dated 10 February 2003,[14] the Financial Management Office reported that the amount of P297,792.34 representing the salaries and

allowances of respondent from 16 June 2001 to 31 January 2003 had been withheld. Hence, the total amount of P268,220.00 should be deducted from the withheld amount of P297,792.34.

The OCA also recommends the dismissal of respondent from the service for dishonesty and grave misconduct.

The OCA observes that the Office of the Clerk of Court performs a very delicate function, that of being the custodian of the court's funds and revenues, records, properties and premises. Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and properties. Section 7, Rule 136 of the Rules of Court requires that the clerk shall keep all record, papers, files, exhibits and public property committed to his charge. Respondent's misappropriation and conversion of funds under her custody by virtue of her official position show her unfitness to continue in office. Under Section 23, Rule XIV of the Omnibus Rules Implementing Book V of E.O No. 292 and other Pertinent Civil Service Laws, dishonesty and grave misconduct are considered grave offenses for which the penalty of dismissal is prescribed even at the first instance. Section 9 of the said Rule also provides that the penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification for re-employment in the government service. This penalty is without prejudice to the criminal liability of respondent.

The findings and recommendations of the OCA are well-taken.

In *Navallo v. Sandiganbayan*,^[15] we held that an accountable officer may be convicted of malversation even in the absence of direct proof of misappropriation as long as there is evidence of shortage in his accounts which he is unable to explain. We also reiterate that public service requires the utmost integrity and strictest discipline. Thus, a public servant must exhibit at all times the highest sense of honesty and integrity. No less than the Constitution declares that a public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.^[16] Those involved in the administration of justice must live up to the strictest standard of honesty and integrity in public service for the image of a court is mirrored in the conduct of the men and women who comprise it, from the judge to the least and lowest of its personnel.^[17]

Respondent failed to live up to the high ethical standards imposed by the court on its employees and for this she should be dismissed. Her actions placed her honesty and integrity in serious doubt. We cannot countenance any conduct, act or omission, committed by those involved in administering justice, which violate the norm of public accountability and which diminishes the faith of the people in the Judiciary.^[18]

WHEREFORE, respondent Lorna A. Verdon is found GUILTY of DISHONESTY and GRAVE MISCONDUCT and is hereby DISMISSED from the service with forfeiture of retirement benefits except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and controlled- corporations. This is without prejudice to any criminal complaint that may be filed against her.

The Financial Management Office of the Office of the Court Administrator is DIRECTED to deduct the following amounts from respondent's withheld salaries and allowances:

(1) The amount of P268,220.00 which shall then be deposited to the fiduciary account of the Municipal Circuit Trial Court, Don Carlos-Kitaotao-Dangcagan, Bukidnon. From the P268,220.00, the amount of P238,220.00 shall be allocated to the money misappropriated by respondent and the P30,000.00 shall be returned to complainant Teresita Retazo representing the cancelled bail bond of the accused in Criminal Case No. 10586-2000 upon showing of the proper documentation; and

(2) The amount of P1,000.00 which shall be paid to the Court as fine in the Court's resolution of 19 July 2006.

The remaining amount shall be returned to respondent as the same still forms part of her salaries and allowances.

Let a copy of this Decision be attached to respondent's personnel records in this Court.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Corona, J., on official leave.

[1] Rollo (A.M. No. P-02-1653), pp. 1-4.

[2] Id. at 24-25.

[3] Id. at 26.

[4] Id.

[5] Id. at 27-28.

[6] Rollo (A.M. No. P-04-1807), p. 3.

[7] Id. at 9.

[8] Id. at 15.

[9] Id. at 17.

[10] Id. at 20.

[11] Id. at 35-38.

[12] Supra note 2.

[13] Supra note 3.

[14] Rollo. (A.M. No. P-02-1653), p. 30.

[15] G.R. No. 97214, July 18, 1994, 234 SCRA 175.

[16] 1987 Constitution, Art. XI, Sec. 1.

[17] Office of the Court Administrator v. Besa, 437 Phil. 372, 381 (2002).

[18] Office of the Court Administrator v. Julian, A.M. No. P-01-1515, 10 February 2005, 450 SCRA 588, 598.

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