

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JOSE V. MENDOZA, CLERK OF COURT II, MUNICIPAL TRIAL COURT, GASAN, MARINDUQUE, RESPONDENT.

A.M. No. P-14-3257. July 22, 2015

Ponente: CARPIO, ACTING CJ.

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CARPIO, ACTING CJ.:

The Case

This is an administrative case that the Office of the Court Administrator (OCA) commenced against respondent Jose V. Mendoza (Mendoza), Clerk of Court II, Municipal Trial Court, Gasan, Marinduque (MTC Gasan), for dereliction of duty.

The Antecedent Facts

The Financial Management Office (FMO) issued a Memorandum dated 14 December 2012 to Deputy Court Administrator Raul B. Villanueva (DCA Villanueva) regarding Mendoza's failure to submit his monthly financial reports. The Memorandum states:

A perusal from the records of this Office disclosed that on November 13, 2007, a letter was sent to Mr. Mendoza requiring him to submit monthly financial reports for Judiciary Development Fund (JDF) for the months of June 2005 to present; Fiduciary Fund (FF) for the months of January 1997, November 2001, May 2006, and March 2007 up to present; Special Allowance for the Judiciary Fund (SAJ) for the months of June 2005 to present; and General Fund for the month of May 2003. Another letter dated January 29, 2008 was sent again to Mr. Mendoza requiring him to submit the aforementioned reports. On April 14, 2008, a letter requiring him to show cause within a non-extendible period of five (5) days from notice why his salary should not be withheld for failure to comply with office rules and regulations on the submission of monthly financial reports on the aforementioned funds for the said periods. Notably, on June 16, 2008, this Office recommended the withholding of the salaries of Mr. Mendoza for failure to comply [with] the abovementioned directives, which was APPROVED by then Chief Justice REYNATO S. PUNO on June 30, 2008. His salaries were withheld starting July 2008.

In a letter dated March 03, 2009, Mr. Mendoza admitted his remorse for being remiss in the submission of his monthly reports of collections, deposits, and withdrawals, explaining that it was primarily due to the peculiarities of his function as Clerk of Court of MTC-Gasan, Marinduque. He further explained that he has also been acting as Court Interpreter for several years already, making, checking and reviewing all the transcript[s] of stenographic notes taken during the hearings, that is, in addition to the functions he has to perform as a Clerk of Court. He further stated that it was not his intention to defy the rules and regulations of this Office, contesting that all collections were properly deposited with the Land Bank of the Philippines, and [he] did not utilize it to enrich nor benefit him to the detriment of the government. In view of Mr. Mendoza's submission of the abovementioned required reports, this Office recommended the release of his withheld salaries, and that he be severely reprimanded with a stern warning to be more circumspect in the performance

of his duties, and that a repetition of the said acts will be dealt with more severely. The Honorable LEONARDO A. QUISUMBING, then Acting Chief Justice, APPROVED the aforesaid recommendations on December 03, 2009.

In a letter dated March 07, 2012, Mr. Mendoza was again required to show cause within a non-extendible period of five (5) days from notice why his salary should not be withheld for failure to submit monthly financial reports on JDF for the months of March 2010 up to present; SAJ for the months of March 2010 up to present; FF for the months of March 2010 up to present; and the newly required quarterly General Fund report for the 1st quarter of 2009 up to present. For failure again to comply with the said directive, on September 10, 2012, this Office was constrained to submit the following recommendations to the Court, to wit: (a) withhold the salaries and all allowances of Mr. Jose V. Mendoza; (b) relieve him as Clerk of Court; and (c) conduct of an immediate financial audit in the books of accounts of MTC, Gasan, Marinduque. Notably, the aforementioned recommendations were approved on September 21, 2012, and the salaries of Mr. Mendoza were withheld starting October 2012.

In a letter dated October 15, 2012, Mr. Mendoza narrated a family problem he had with his daughter and admitted his being remiss in the submission of the required financial reports. Mr. Mendoza did not state any further explanation and requested for the release of his withheld salaries and allowances. In a letter dated November 26, 2012, this Office informed Mr. Mendoza that recommendation for the release of his withheld salaries and allowances could only be effected upon submission of the required financial reports. Records of this Office disclosed that up to date, Mr. Mendoza has still failed to submit reports for JDF for the months of March 2011 up to present; SAJ for the months of March 2011 up to present, FF for the months of March 2010 up to present, and General Fund for the 1st quarter of 2009 up to 2nd quarter of 2010, and 4th quarter of 2010 up to present. Notably Mr. Mendoza seems to submit unsatisfactory explanation whenever required to show cause for his failure to submit the monthly financial reports. Records show that there was repetition of his misfeasance despite opportunities given to him by the Honorable Court.

In view of the foregoing, this Office respectfully submits the following recommendations for your Honor's consideration and directive, to wit:

1. defer the release of the withheld salaries and allowances of Mr. Jose V. Mendoza, Clerk of Court, MTC, Gasan, Marinduque;
2. retain the relief of Mr. Mendoza as Clerk of Court and direct the Executive Judge/Presiding Judge to designate an Officer-in-Charge in his stead; and
3. refer the herein matter to the Legal Office, Office of the Court Administrator, for evaluation of any appropriate legal sanction the circumstances may warrant.[1]

The OCA approved the recommendations. It docketed the matter as an Informal Preliminary Investigation (IPI), furnished Mendoza with a copy of the Memorandum, and required him to comment thereon. The OCA further directed the Fiscal Monitoring Division, Court Management Office (CMO) to conduct a financial audit in MTC Gasan to determine if there were any shortages in the court's funds.

In an Indorsement dated 19 April 2013, Mendoza was required to comment on the Memorandum dated 27 February 2013 charging him with dereliction of duty. In his comment, Mendoza claimed that the funds were already deposited to the respective Supreme Court accounts. He also asserted that the audit team did not find any shortage of funds, and thus, he was not entirely neglectful in handling the collections entrusted to him. Mendoza also explained that when he was given the show cause order, he had to attend first to his daughter's schooling and the nerve disease that he was suffering from. He stated that the required reports were already submitted to Atty. Gilda A. Sumpo (Atty. Sumpo), SC Chief Judicial Staff Officer, Accounting Division, FMO-OCA in December 2012. He appealed for the release of his salaries and allowances and undertook that he would no longer violate

this Court's circulars.

In a Memorandum dated 9 October 2013, the CMO Financial Audit Team reported to the OCA the results of the audit of the book of accounts of MTC Gasan covering the period from 1 March 2009 to 31 October 2012. The team reported that they had no difficulty in examining the book of accounts because of the proper filing of records and accessibility to all documents needed in the course of the audit. The team also reported that all funds were properly accounted for. However, the team reported that Mendoza's monthly reports of collections, deposits, and withdrawals were not submitted on time. Mendoza told the team that the delay was due to his voluminous workload. According to the team, the delay was also due to Mendoza's failure to delegate to his subordinates some of the tasks pertaining to the collections, deposits, and preparation of monthly reports. The team reminded Mendoza about the proper procedures in handling the court's collections, deposits, and withdrawals. The team also advised Mendoza to submit on time the Monthly Financial Reports required by the Accounting Division of OCA.

On 4 February 2014, Mendoza again requested for the release of his salaries and allowances. However, in a letter dated 25 February 2014 by Atty. Lilian C. Barribal-Co, OCA Chief of Office, FMO, to the Court Administrator, she stated that their office could not recommend the release of Mendoza's salaries and allowances because he still had unsubmitted financial reports. On 8 April 2014, Atty. Sumpo reported that, in compliance with the 20 February 2014 Order of their office, Mendoza submitted the financial reports on (1) Judiciary Development Fund (JDF) up to February 2014; (2) Special Allowance for the Judiciary Fund (SAJ) up to February 2014; (3) Fiduciary Fund (FF) up to February 2014; (4) Sheriff's Trust Fund (STF) up to February 2014; and (5) General Fund (GF) up to the first quarter of 2014.

The Report and Recommendations of the OCA

In its Report dated 7 July 2014,[2] the OCA found that Mendoza had been remiss in the performance of his duties, as he himself admitted in his comment. The OCA reported that Mendoza violated OCA Circular No. 113-2004[3] directing that Monthly Reports of Collections and Deposits for the JDF, SAJ, and FF shall be sent not later than the 10th day of each succeeding month to the Chief Accountant, Accounting Division, FMO-OCA. The OCA also noted that this was not the first time that Mendoza's salaries and allowances were withheld for not complying with the OCA Circular. His salaries and allowances were first withheld on 30 June 2008 and were only released on 3 December 2009 after he submitted the required reports. The OCA stated that it could not exonerate Mendoza on the grounds that he had to attend to his daughter's schooling and that he was suffering from a nerve disease because he could have delegated his duties to one of his subordinates.

The OCA stated that Mendoza's repetitive acts constitute simple neglect of duty, a less grave offense punishable by suspension for one month and one day to six months for the first offense. However, the OCA considered as mitigating circumstances Mendoza's lack of bad faith, his illness, the fact that the audit team found no shortage of funds in the court's accounts, his years in service, and the fact that this was his first infraction. The OCA recommended that the complaint be re-docketed as a regular administrative matter. The OCA further recommended the following:

- (1) that Mendoza be found guilty of Simple Neglect of Duty and fined in the amount of Five Thousand Pesos, with a stern warning to be more circumspect in the performance of his duties, and that a repetition of the same or similar offense will be dealt with more severely;
- (2) that Mendoza be required to submit himself to the Supreme Court Medical Services, Manila, for medical examination, and that the Supreme Court Medical Services be directed to submit to the Court a Medical Report and Certification from the Head of the Medical Services whether Mendoza's physical pains render him

incapable of effectively discharging his duties as Clerk of Court;

(3) that the Finance Division, FMO-OCA be directed to release Mendoza's withheld salaries and allowances considering his submission of the required reports; and

(4) that the Presiding Judge of MTC Gasan be directed to strictly supervise his accountable officer to ensure strict adherence to the Court's circulars and other issuances on the proper handling of judiciary funds.

The Ruling of this Court

The Court adopts the findings of the OCA.

OCA Circular No. 113-2004 states:

The following guidelines and procedures are hereby established for purposes of uniformity in the submission of Monthly Reports of Collections and Deposits, to wit:

1. The Monthly Reports of Collections and Deposits for the Judiciary Development Fund (JDF), Special Allowance for the Judiciary (SAJ) and Fiduciary Fund (FF) shall be:

1.1. Certified correct by the Clerk of Court

1.2. Duly subscribed and sworn to before the Executive/Presiding Judge

1.3. Sent not later than the 10th day of each succeeding month to-

The Chief Accountant

Accounting Division

Financial Management Office

Office of the Court Administrator

Supreme Court of the Philippines

Taft Avenue, Ermita

Manila

2. The following documents shall be attached to the reports:

A. For Judiciary Development Fund (JDF)

a. Duplicate copies of the official receipts issued

b. Machine validated deposit slips, if collections are remitted/deposit[ed] with the Land Bank of the Philippines (LBP), or Postal Money Order (PMO), if collections are remitted through PMO

B. For Special Allowance for the Judiciary (SAJ)

a. Duplicate copies of the official receipts issued

b. Machine validated deposit slips, if collections are remitted/deposited with the LBP, or PMO, if collections are remitted through PMO

C. For Fiduciary Fund (FF)

a. Duplicate copies of the official receipts issued

b. Machine validated deposit slips, if collections are deposited with the LBP, or certified true copies of the official receipts issued by the Provincial/City/Municipal Treasurer, if collections are deposited with the Treasurer's Office

c. In case of withdrawal:

c.1. Copy of the Court Order

c.2. Original Official Receipt (OR) or certified true copy of OR

c.3. Duplicate or certified true copy of withdrawal slip and disbursement voucher if collections are deposited in a savings account with the LBP, or a copy of the check and disbursement voucher if collections are deposited in a current account with the LBP, or disbursement voucher, if collections are deposited with the PTO/CTO/MTO

c.3.3. [sic] Copy of the acknowledgment receipt

3. In case no transaction is made within the month, written notice thereof shall be submitted to the aforesaid Office not later than the 10th day of the succeeding month.

The directive of OCA Circular No. 113-2004 requiring the submission of monthly reports of collections of court funds and fees is mandatory.[4] Mendoza's transgression already happened before when his attention was called on 13 November 2007 about his failure to submit the required monthly financial reports. It resulted to the withholding of his salaries starting July 2008 until he complied with OCA's directive. Yet, despite the previous warning he received to be more circumspect in the performance of his duties, Mendoza again failed to comply with OCA Circular No. 113-2004. It even came to the point that the Court had to form an audit team to look over Mendoza's accounts. The Court did not have to utilize its resources if only Mendoza had been more conscientious in performing his responsibilities. The records also showed that even when his attention was called in 2012 to submit the financial reports, he still failed to submit the reports and only fully complied in February 2014.

We thus agree with the OCA that Mendoza is guilty of simple neglect of duty. Neglect of duty refers to the failure of an employee to give one's attention to a task expected of him.[5] Gross neglect is such neglect which, from the gravity of the case or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare, while simple neglect of duty signifies a disregard of a duty resulting from carelessness or indifference.[6] The report of the audit team showed that Mendoza's records were properly filed and the documents were all accessible to them. The audit team did not find any shortage of funds in Mendoza's accounts. These findings absolved Mendoza from gross neglect. Still, Mendoza had been repeatedly remiss in complying with OCA Circular No. 113-2004. The Court cannot accept Mendoza's excuse that his failure to submit the required financial reports was due to his voluminous work. As pointed out by the OCA, he could have delegated some of his work to his subordinates instead of doing everything himself to the point of being unable to do his other duties.

We do not agree with the OCA in saying that this is Mendoza's first infraction and in appreciating it as a mitigating circumstance. The records show otherwise. However, we consider Mendoza's lack of bad faith, his years in service, and the fact that the audit team found no shortage of funds as mitigating circumstances in this case. Hence, instead of suspension, we adopt OCA's recommendation that Mendoza should be fined in the amount of Five Thousand Pesos (P5,000). We also adopt OCA's recommendation that Mendoza should be required to submit himself for medical examination to determine if he is still physically fit to discharge his duties as Clerk of Court. In the meantime, we order the release of his withheld salaries and allowances considering his compliance with OCA Circular No. 113-2004.

WHEREFORE, we find respondent Jose V. Mendoza, Clerk of Court II, Municipal Trial Court, Gasan, Marinduque, GUILTY of Simple Neglect of Duty and impose upon him a FINE of Five Thousand Pesos (P5,000), with a warning that a repetition of the same or similar act in the future will be dealt with more severely.

The Court further requires respondent Mendoza to submit himself to the Supreme Court Medical Services, Manila, for medical examination, and directs the Supreme Court Medical Services to submit to the Court a Medical Report and Certification from the Head of the Medical Services whether Mendoza's physical pains render

him incapable of effectively discharging his duties as Clerk of Court.

The Court directs the Finance Division, FMO-OCA to release respondent Mendoza's withheld salaries and allowances considering his submission of the required reports after withholding the fine imposed upon him in this Decision.

Finally, the Court directs the Presiding Judge of the Municipal Trial Court, Gasan, Marinduque to strictly supervise his accountable officer to ensure faithful compliance with the Court's circulars and other issuances on the proper handling of judiciary funds.

SO ORDERED.

Brion, Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Rollo, pp. 2-3.

[2] Id. at 79-87.

[3] Submission of Monthly Reports of Collections and Deposits.

[4] Office of the Court Administrator v. Almirante, 661 Phil. 300 (2011).

[5] Clemente v. Bautista, A.M. No. P-10-2879, 3 June 2013, 697 SCRA 10.

[6] Id.

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