

**RE: REPORT ON THE FINANCIAL AUDIT ON THE BOOKS OF
ACCOUNTS OF MS. ADELINA R. GARROVILLAS, FORMER CLERK OF
COURT, MUNICIPAL CIRCUIT TRIAL COURT, TERESA-BARAS, RIZAL.**

A.M. NO. P-04-1894. August 09, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This involves an audit by the Office of the Court Administrator (OCA) on the books of accounts of Adelina R. Garrovillas, former Clerk of Court, Municipal Circuit Trial Court, Teresa-Baras, Rizal.

On July 1, 2003, Garrovillas compulsorily retired from the service. Upon an audit examination of her books of accounts by the Accounting Division, Financial Management Office, OCA, the following shortages were found:

CLERK OF COURT GENERAL FUND

Total collections for the period July 1994 to May 31, 2003 P235,443.40

Less: Total deposits for the same period P233,708.00

SHORTAGE P1,735.40

JUDICIARY DEVELOPMENT FUND

Total collections for the period March 1985 to May 31, 2003 P341,240.20

Less: Total deposits for the same period P338,790.58 P338,708.14

Less: Over-remittance of interest P82.44 P338,708.14

SHORTAGE

P2,532.06

FIDUCIARY FUND

Total collections for the period August 1993 to May 31, 2003 P941,561.00

Less: Total withdrawals for the same period P628,200.00

Total P313,361.00

Less: Balance per bank as of May 26, 2003 P277,034.04

BALANCE OF ACCOUNTABILITY P36,326.96

1,735.40

2,532.06

P40,594.42

In a Memorandum[1] dated June 9, 2004, Deputy Court Administrator Jose P. Perez directed Garrovillas to explain why she is using government funds in encashing the checks of her co-employees. She was also directed to reconstitute the shortages within ten (10) days from notice.

In her letter-explanation[2] dated June 23, 2004, Garrovillas admitted encashing the checks of her co-employees from the court's collections in order that they will be able to save rediscounting fees whenever their checks were encashed outside. She acted in good faith and not for profit. She requested that the amount of P40,594.42 (corresponding to the total shortages) be deducted from her retirement benefits so she can secure the necessary clearances from the different Offices of this Court relative to her retirement.

On August 9, 2004,[3] OCA submitted to Chief Justice Hilario G. Davide, Jr. a Report on the Financial Audit on the Books of Accounts of Garrovillas. The OCA found that Garrovillas' use of the court's collections to encash the salary checks of her co-employees resulted, not only in the delay of remittances, but also in her inability to remit some collections. Thus, the above shortages in the total sum of P40,594.42.

In our resolution dated September 21, 2004, we adopted the OCA's recommendation, quoted as follows;

(a) DIRECT the Financial Management Office, OCA to

(i) DEDUCT from the terminal leave pay of Mrs. Adelina R. Garrovillas, Former Clerk of Court, MCTC, Teresa-Baras, Rizal, the amount of Forty thousand Five hundred Ninety-four Pesos and Forty-two Centavos (P40,594.42) from the money value of her terminal leave, subject to refund upon the proper presentation of the documents to the Fiscal Monitoring Division (FMD), OCA, that the said amount has been remitted;

(ii) DEPOSIT the said amount to the following accounts:

Fiduciary Fund P36,326.96

Judiciary Development Fund P 2,532.06

Clerk of Court General Fund P 1,735.40

Total P40,594.42

and (iii) COORDINATE with the Fiscal Monitoring Division, Court Management Office, OCA, before releasing the checks to the acting Clerk of Court of MCTC, Teresa-Baras, Rizal, so that the latter could make the corresponding communication to the said Clerk of Court;

(b) DIRECT THE Clerk of Court/Officer-in-Charge of MCTC, Teresa-Baras, Rizal to furnish the FMD-CMO-OCA with machine validated deposit slips as proof that the amount deducted from the terminal leave pay of Mrs. Garrovillas was transferred to the respective accounts with five (5) days after receipt of the checks from the Checks Disbursement Division-FMO-OCA;

(c) Impose upon Mrs. Garrovillas a FINE of Five Thousand Pesos (P5,000.00) for the delayed remittance of her collections depriving the government of interest earned if the same were deposited on time, and direct the Financial Management Office, OCA, to DEDUCT the said amount from her terminal leave pay;

(d) DOCKET the report on the financial audit on the books of accounts Ms. Adelina R. Garovillas, Former Clerk of Court, MCTC, Teresa-Baras, Rizal, as a regular administrative matter, A.M. No. P-04-1894 (Office of the Court Administrator vs. Ms. Adelina R. Garovillas, former Clerk of Court, MCTC, Teresa-Baras, Rizal; and

(e) require Ms. Adelina R. Garovillas, Former Clerk of Court, MCTC, Teresa-Baras, Rizal, to COMMENT on the aforesaid report within ten (10) days from notice hereof."

In her comment[4] dated October 7, 2004, Garrovillas requested that her accountabilities in the total amount of P40,592.42, as well as the P5,000.00 fine imposed upon her, be deducted from her terminal leave benefit.

In a Resolution[5] dated November 9, 2004, we referred the comment of Garrovillas to the OCA for evaluation, report and recommendation.

In his Memorandum[6] of December 14, 2004, Court Administrator Presbitero J. Velasco, Jr. found Garrovillas guilty of serious misconduct and recommended that she be fined P5,000.00 to be deducted from her terminal leave benefit, thus:

"Ms. Garrovillas violated Administrative Circular No. 3-2000 (Guidelines in the Allocation of the Legal fees Collected Under Rule 141 of the Rules of Court, As Amended, Between the General Fund and the Judiciary Development Fund) which provides:

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"3. Duty of the Clerks of Court, Officers-in-Charge or accountable officers. "

The Clerks of Court, Officers-in-Charge of the Office of the Clerk of Courts, or their accountable duly authorized representatives designated by them in writing, who must be accountable officers, shall receive the Judiciary Development Fund collections, issue the proper receipt therefore, maintain a separate cash book properly marked CASH BOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections in the manner herein prescribed, and render the proper Monthly Report of Collections for said fund.

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3. Systems and Procedures:

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(c) In the RTC, SDC, MeTC, MCTC and SCC. - The daily collections for the Fund in these courts shall be deposited everyday with the local or nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT NO. 0591-0116-34; or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever the collections for the Fund shall reach P500.00, the same shall be deposited immediately even before the days above-indicated:

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Collections shall not be used for encashments of personal checks, salary checks, etc. Only Cash, Cashier's Check and Manager's Check are acceptable payments.' (emphasis supplied)

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Correlatively, she also violated Circular No. 50-95 (11 October 1995) which mandates that "all collections from bailbonds, rental deposits and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of Court concerned, upon receipt thereof.

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Indeed, the delayed and the consequent non-remittance of the court's collection by Ms. Garrovillas were unjustifiable. In *Mallare vs. Ferry*, it was held that unjustifiable delay in remitting collections constitutes grave misfeasance, if not malversion of funds. Likewise, *Lirios vs. Oliveros* (253 SCRA 258) and *Re: Report on Audit and Physical Inventory of the Records of Cases in MTC of Peñaranda, Nueva Ecija* (319 SCRA 507) held that the unreasonable delay in the remittance of fiduciary funds constitutes serious misconduct.

For humanitarian considerations and since this is the only administrative infraction committed by Ms. Garrovillas in her thirty-one years in service, the penalty of fine should be imposed against her.

In view of the foregoing, we respectfully submit for the consideration of the Honorable Court that a FINE of P5,000.00 be imposed against Ms. Adelina R. Garrovillas, former Clerk of Court, MCTC-Barras, Rizal for serious misconduct to be deducted from her terminal leave benefit."

We agree with the findings and recommendation of Court Administrator Velasco.

The Clerk of Court is an important officer in our judicial system. His office is the nucleus of all court activities, adjudicative and administrative. His administrative functions are as vital to the prompt and proper administration of justice as his judicial duties.[7]

The Clerk of Court performs a very delicate function. He or she is the custodian of the court's funds and revenues, records, property and premises. Being the custodian thereof, the Clerk of Court is liable for any loss, shortage, destruction or impairment of said funds and property.[8] Hence, Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody.[9] The same should be deposited immediately upon receipt thereof with the City, Municipal or Provincial Treasurer where his court is located.

In the Report on the Financial Audit in RTC, General Santos City and the RTC and MTC of Polomok, South Cotabato,[10] we emphasized the role of the Clerks of Court with regard to the collection of legal fees, thus:

"xxx Clerks of Courts are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the otherhand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the court's ministerial officers. It should be brought home to both that the safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds."

As Clerk of Court, Garrovillas is an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the court. She admitted that she used the money collected to encash the checks of her co-employees and failed to remit her cash collections constituting public funds. Clearly, she violated the trust reposed in her as disbursement officer of the judiciary. Thus, she is liable for the shortages mentioned above.

In *Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao Del Norte*,[11] we held that failure of the Clerk of Court to remit the court funds collected to the Municipal Treasurer constitutes gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service. Under Rule IV, Section 52-A of the Civil Service Uniform Rules on Administrative Cases in the Civil Service,[12] these are grave offenses punishable by dismissal even committed for the first time.

However, since Garrovillas had retired from the service, with thirty-one years of service, and this is her first infraction, we find the Court Administrator's recommended penalty of P5,000.00 fine in order.

WHEREFORE, retired Clerk of Court Adelina R. Garrovillas is FINED in the amount of FIVE THOUSAND PESOS (P5,000.00) and is ordered to RESTITUTE the shortages in her collections in the total amount of P40,594.42.

The Financial Management Office is directed to deduct from her retirement benefits the sum of Forty Thousand Five Hundred Ninety Four Pesos and forty two centavos (P40,594.42).

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

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Corona, J., on leave.

[1] Rollo at 9.

[2] Id. at 6.

[3] Id. at 1-3.

[4] Id. at 22.

[5] Id. at 25.

[6] Id. at 27-31.

[7] Re: Report on the Financial Audit Conducted in the RTC, Br. 34, Balaoan, La Union, A.M. No. 02-1-66-RTC, August 19, 2004, citing *Dizon vs. Bawalan*, 405 SCRA 236, 242 (2003).

[8] *Office of the Court Administrator vs. Fortaleza*, A.M. No. P-01-1524, July 29, 2002, 385 SCRA 293, citing *Office of the Court Administrator vs. Bawalan*, 231 SCRA 408 (1994).

[9] *Office of the Court Administrator vs. Fortaleza*, id, citing *Office of the Court Administrator vs. Galo*, 314 SCRA 705 (1999).

[10] A.M. No. 96-1-25-RTC, April 18, 1997, 271 SCRA 302.

[11] A.M. No. 95-4-143-RTC, March 13, 1998, 287 SCRA 510.

[12] "The following are grave offenses with their corresponding penalties:

- Dishonesty

1st Offense - Dismissal

- Gross Neglect of Duty

1st Offense - Dismissal

- Grave Misconduct

1st Offense - Dismissal"

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