

RE: LOSS OF COURT EXHIBITS IN THE MTCC OF CADIZ CITY, OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. JUDGE ROLANDO V. RAMIREZ, AND CLERK OF COURT SANDRA M. LEDESMA, MTCC, C...

A.M. NO. MTJ-03-1508 (FORMERLY A.M. NO. 01-11-307-MTCC). January 17, 2005

Ponente: TINGA, J.

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TINGA, J.:

The loss of firearms and ammunitions and other exhibits stored within the office of the Municipal Trial Court in Cities (MTCC), Cadiz City, resulted in this administrative case against Presiding Judge Rolando V. Ramirez (Judge Ramirez) and Sandra M. Ledesma (Ledesma), Clerk of Court of the MTCC.

In the morning of 10 October 2001, Evan Rose Whitaker, Court Stenographer II of the MTCC, Cadiz City, noticed that her cassette tape recorder, which she had kept inside the drawer of her table, was missing. The MTCC staff was alerted to this fact and they then discovered that the door of the staff room of the RTC, Cadiz City, had been forcibly opened. This prompted Marie Viason, MTCC Cash Clerk, to immediately check the steel cabinet where the court exhibits were placed and she found out that it had been forcibly opened and a sack containing assorted firearms and ammunitions was missing. Thereafter, Whitaker reported the incident to the PNP for investigation.[1]

At the time of the incident, Judge Ramirez and Ledesma were attending the Eighth Regional Seminar for Judges, Clerks of Court, Branch Clerks of Court, Legal Researchers and Sheriffs conducted by the Philippine Judicial Academy (PHILJA) at the Bacolod Convention Plaza, Bacolod City. It was only on 11 October 2001 when they reported back to their office that they learned of the robbery.[2]

Judge Ramirez wrote a letter dated 11 October 2001 to this Court reporting the loss of assorted firearms and ammunitions and other exhibits in his court.[3] In a Resolution[4] dated 21 January 2002, the Court directed Executive Judge Renato Muñoz (Executive Judge Muñoz) to investigate the incident. Investigations were separately conducted by Judge Ramirez himself, Executive Judge Muñoz of the Regional Trial Court (RTC), Cadiz City, the National Bureau of Investigation (NBI) Bacolod District Office and the Philippine National Police (PNP), Cadiz City. The investigations revealed in common that when the robbery took place, the three (3) guards on duty were Carlos P. Jimenez (Jimenez), Domingo L. Delotina (Delotina) and Delson V. Historia (Historia).[5] At the time of the robbery, they were on duty for twenty-four (24) hours on shifting basis. Jimenez was the watchman on the first shift which began at eight o'clock in the morning to four o'clock in the afternoon; Delotina on the second shift which starts from four o'clock the afternoon to midnight, while Historia was the guard on duty on the third shift from midnight up to eight o'clock in the morning.

According to Historia, on 8 October 2001, he was present at the City Hall before ten o'clock in the evening because he was assigned for the activation of the siren at ten o'clock in the evening. After the siren sounded, at past ten o'clock in the evening, he fell asleep and when he woke up at two o'clock in the morning, he

immediately conducted a roving inspection of the City Hall and discovered that the door of the courtroom of the MTCC was already open. Upon noticing this, he decided not to enter the room but instead awakened his two fellow watchmen who were asleep at the time. When Jimenez examined the lock, he saw that it had been forcibly opened. The three guards, however, failed to immediately report the matter to the authorities.[6]

After Ledesma, the custodian of the court exhibits, came to know of the robbery on 11 October 2001, she made an inventory of the items kept inside the steel cabinet and found out several firearms and items were lost. The missing items were as follows:

- one (1) homemade .12 shotgun
- four (4) live ammos for .12 gauge shotgun
- one (1) homemade magazine for .12 shotgun
- one (1) homemade pistol cal. 7.62
- one (1) live ammos (sic) for cal 7.62
- one (1) homemade .12 gauge shotgun (pistolized)
- one (1) homemade magazine with four (4) live ammos for .12 gauge shotgun
- one (1) .12 gauge shotgun
- three (3) live ammos for .12 gauge shotgun
- one (1) homemade cal. 38 revolver without serial number
- one (1) armcor cal. 38 with defaced serial number
- six (6) live ammos for cal. 38
- five (5) live ammos for cal. 38 revolver
- one (1) two-way icom radio
- cash amounting to P6,600.00.[7]

An operation was subsequently conducted by the Cadiz PNP which yielded to the confiscation of one homemade shotgun, one homemade magazine and four live ammos for shotgun[8] and the arrest of Michael Adelantar, Sunny Boy Celiz, Juan Carlos Gonzales and Edenpol Alogon who were caught in possession of these weapons. The same items confiscated were presented to Ledesma for identification purposes and she identified them as among those declared lost at MTCC. A certain Demole Magbanua stated in a sworn statement that the same Juan Carlos Gonzales and Michael Adelantar arrested by the police had approached him in order to sell the subject firearms. They told Magbanua that they obtained the gun from the Cadiz City Hall.[9] Eventually, the NBI recommended that its own investigation be considered closed and terminated.[10]

The investigations conducted by Judge Ramirez himself and Executive Judge Muñoz disclose that no court personnel were implicated in the robbery incident.[11] It was also discovered that the guards on duty failed to report to the authorities the robbery that took place.[12] Instead, they fixed the detached wood block to the door without waiting for the investigators to check the physical evidence.[13]

After receipt of the investigation report on the matter, this Court, in its Resolution[14] dated 18 November 2002, resolved to: (a) direct Judge Ramirez to take proper steps towards the recovery of the stolen firearms and

ammunitions and other exhibits and to seek relief from accountability of lost government properties caused by the robbery, within thirty (30) days from notice hereof, pursuant to Sec. 638 of the Revised Administrative Code; (b) require Judge Ramirez to submit a status report on the criminal cases filed against the robbers-accused within ten (10) days from notice hereof; and (c) direct Executive Judge Muñoz to reinvestigate the possible complicity of the guards on duty in the robbery and to submit to the court his report and recommendation thereon within ten (10) days from notice.

Judge Ramirez, in compliance with said resolution, submitted a Compliance Report[15] dated 14 January 2003 on the status of criminal cases filed against the robbers and a letter [16] dated 8 January 2003 to the Commission on Audit seeking relief from accountability of lost government properties subject to the robbery. Executive Judge Muñoz submitted a Reinvestigation Report[17] dated 16 January 2003 finding that the complicity of the guards on duty at the time of the robbery was remote although they may be guilty of simple neglect of duty.[18] However, sanctions could not be imposed on them since they were under the direct supervision and control of the Office of the City Mayor of Cadiz City and not in any way connected with the Judiciary since the building where the MTCC and the RTC was located formed part of the City Hall of Cadiz City.[19]

The Reinvestigation Report likewise unveiled the fact that the suspects in the robbery were minors who belonged to prominent families in Cadiz City and neighboring cities.[20] Michael Adelantar, the leader of the group, is the grandson of retired Judge Adelino Ledesma and nephew of both herein respondent Ledesma and MTCC Process Server Armando Ledesma. Executive Judge Muñoz opined that the suspects were able to enter the premises of the court with ease, since Michael Adelantar had free access to the court due to ties to his aunt, the Clerk of Court, and his uncle, the process server.[21] The report also noted that the steel cabinet where evidence was stored was already dilapidated. Its original lock was already destroyed and at the time of the robbery, secured by a small padlock and small chain passing through the holes where the two handles of the cabinet were once attached. The location of the cabinet, which was situated near the main door of the courtroom, further added to the risk. [22]

The Office of the Court Administrator (OCA), after considering the reports submitted to it, recommended to this Court that the matter be formally docketed as an administrative case against Judge Ramirez and Ledesma and directed them to explain within ten (10) days from notice why they should not be held administratively liable for the loss of court exhibits at MTCC, Cadiz City.[23] The Court adopted this recommendation in a Resolution[24] dated 10 September 2003, hence the present complaint.

In an Explanation dated 6 November 2003,[25] Judge Ramirez and Ledesma argue that they should not be held administratively liable since they were attending the live-in seminar for judges and clerks of court when the incident occurred. Further, the stolen court exhibits were wrapped in a sack placed inside a steel storage cabinet which was locked and that the Cadiz City Hall is provided with guards who regularly inspect the premises.

After considering the records and the investigations conducted on the matter, we find that Ledesma failed to meet the requirement expected of her as a Clerk of Court. Section 7 of Rule 136 of the Rules of Court is explicit that the clerk shall safely keep all records, papers, files, exhibits, and public property committed to her charge.[26] The Office of the Clerk of Court performs a very delicate function, having control and management of all court records, exhibits, documents, properties and supplies.[27] Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and properties.[28]

Indeed, the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Conduct at all times must not only be characterized with propriety and decorum, but above all else, must be above suspicion.[29] As court custodian, it was Ledesma's responsibility to ensure that records are safely kept and the

same are readily available upon the request of the parties or order of the court. The Clerk of Court must be diligent and vigilant in the performance of official duties and in supervising and managing court docket and records. This custodial duty necessarily extends to evidence submitted by the parties and marked as exhibits.[30]

Evidently, the Office of the Clerk of Court ought to be exacting as to the observance of ethical norms for what is sought to be protected is the very institution to which it serves—the courts of justice. The image of the judiciary is the shadow of its officers and employees. A simple misfeasance or nonfeasance may have disastrous repercussions on that image. Thus, a simple act of neglect resulting to loss of funds, documents, properties or exhibits in custodia legis ruins the confidence lodged by the parties to a suit or the citizenry in our judicial process. Those responsible for such act or omission cannot escape the disciplinary power of this Court.

Ledesma contends that when the robbery occurred, she was in Bacolod City attending a seminar sponsored by PHILJA. However, such fact alone will not exculpate Ledesma from any liability. The records note the dilapidated condition of the steel cabinet where the pieces of evidence are stored. This fact already requires immediate attention from the clerk of court, he or she being the custodian of court's funds, documents and exhibits. A simple exercise of diligence would have alerted the Clerk of Court to inform the judge of the necessary repair and to resort to reliable safety measures to ensure the safety of the contents of the cabinet. In failing to observe this, Ledesma is held liable for simple neglect of duty. This Court has emphasized that the Clerk of Court is the administrative officer of the court who has control and supervision of all court records, exhibits, documents, properties and supplies.[31] Indeed, Section 1 of Canon IV of the Code of Conduct for Court Personnel[32] stresses that court personnel shall at all times perform official duties properly and with diligence.

Moreover, the records disclose that the robbers, who are related to Ledesma and the process server of the court where the robbery took place, had apparent access, and perhaps familiarity of the facilities of the MTCC. A custodian of court's records, documents or exhibits should guard against the risk created by familiarity of court facilities by strangers and even those related to him/her.

Nevertheless, the culpability of Ledesma does not foreclose liability on the part of Judge Ramirez. Section 2 of Canon 6 of the New Code of Judicial Conduct[33] provides that judges shall devote their professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operation. Being the presiding judge of the court where the robbery took place, he should be aware that the condition of the facilities used by the court conforms with the basic requirements of reliability and safety to avoid any attempt by unscrupulous persons to frustrate the fair prosecution of cases before the court or the fabrication, destruction or loss of evidence in its custody. Although the primary responsibility of safekeeping of evidence is not lodged with him, he should have at least exercised prudence and fair judgment in anticipating the dismal future in defective court facilities especially if a resultant prejudice to litigants is not a remote possibility.

WHEREFORE, foregoing premises considered, we rule that Sandra Ledesma, the Clerk of Court of the MTCC, Cadiz City, is guilty of simple neglect of duty and is hereby punished to suffer a penalty of SUSPENSION[34] of one (1) month and one (1) day and that repetition of this act shall be dealt with more severely. On the other hand, Judge Rolando V. Ramirez is hereby ordered to pay a FINE of Ten Thousand Pesos (P10,000.00) considering that he had already been penalized by this Court in a prior administrative case docketed as A.M. No. MTJ-01-1357[35] dated 28 March 2001 and ADMONISHED to ensure the reliability and safety of court facilities and equipment to avoid repetition of the incident in his court.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, p. 6.

[2] Ibid.

[3] Rollo, p. 2.

[4] Id. at 3.

[5] Id. at 81.

[6] Id. at 89.

[7] Id. at 68. The firearms and ammunitions had been placed in a blue sack with a tag, after these were received by the Clerk of Court Ledesma pursuant to a Search Warrant issued by the Presiding Judge in the case of “People v. Norberto Servise, et al.”

[8] Id. at 14.

[9] Id. at 14-15.

[10] Id. at 15.

[11] Id. at 91.

[12] Id. at 89.

[13] Id. at 7.

[14] Id. at 71.

[15] Id. at 75.

[16] Id. at 76.

[17] Id. at 81.

[18] Id. at 82.

[19] Ibid.

[20] Ibid.

[21] Ibid.

[22] Id. at 82-83.

[23] Id. at 93.

[24] Id. at 94.

[25] Id. at 101.

[26] Office of the Court Administrator v. Cabe, 389 Phil. 685, 696 (2000).

[27] See Chapter VII (D)(1)(1)(2)(b), The 2002 Revised Manual for Clerks of Court.

[28] Office of the Court Administrator v. Bawalan, A.M. No. P-93-945, March 24, 1994, 231 SCRA 408, 411.

[29] Callejo, Jr. v. Garcia, Adm. Case No. P-88-198, February 25, 1992, 206 SCRA 491, 496.

[30] Bongalos v. Monungolh, 416 Phil. 695, 700, (2001) citing Basco v. Gregorio, A.M. No. P-94-1026, 245 SCRA 614 (1995).

[31] Beegan v. Borja, 330 Phil. 185, 190 (1996).

[32] Promulgated on 13 April 2004 and took effect on 1 June 2004.

[33] Promulgated 27 April 2004 and took effect on 1 June 2004.

[34] Omnibus Rules Implementing Book V of Executive Order No. 292.

[35] Entitled “Monfort Hermanos Agricultural Development Corporation v. Judge Rolando V. Ramirez;,” wherein this Court ordered him to pay a fine of Five Thousand Pesos (P5,000.00) for delay in deciding Civil Case No. 822.

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