

**ATTY. JOSE R. ORTIZ, JR., CLERK OF COURT VI, METROPOLITAN TRIAL COURT, QUEZON CITY, COMPLAINANT, VS. LARRY DE GUZMAN, BRANCH CLERK OF COURT, METROPOLITAN TRIAL COURT, BRANCH 31,...**

*A.M. NO. P-03-1708 (FORMERLY A.M. NO. 02-10-1275-METC). February 16, 2005*

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**PER CURIAM:**

This administrative case stems from the letter[1] of Atty. Jose R. Ortiz, Jr.,[2] regarding falsified receipts and other documents emanating from Branch 31, Metropolitan Trial Court (MeTC) of Quezon City. The falsifications were allegedly committed by respondent branch clerk of court Larry de Guzman.[3]

Atty. Ortiz's initial investigation[4] revealed that on various dates, respondent demanded and received cash bond deposits in violation of standing regulations of this Court. After issuing either fake receipts or unauthorized provisional receipts, he then overstepped the limits of his authority by ordering jail officers to release the accused in each of the following cases:

Parties Case No. Provisional

Receipt Fake

Receipt No.

Date of

Issuance Amount

PP vs. Orlando

Barlaan 31-10609 8903326 8-20-98 P 5,000.00

PP vs. Nympha

Magalona 31-42077-82 Prov. Rec. undated 26,000.00

PP vs. Bernadeth

A. Ramos 31-42823 8903327 7-24-98 15,000.00

PP vs. Rolando

Noynay 31-14170 13490965 11-22-00 3,000.00

PP vs. Florence

Pua 31-107377 written notice undated 5,000.00

PP vs. Dandy L.

Dimapiles 31-110282 & 35279 4,000.00

According to Atty. Ortiz, the falsifications committed were apparent after comparing the fake receipts with the original receipts duly issued by the property division of the Office of the Court Administrator (OCA) of the Supreme Court.

He requested that a formal investigation be conducted.

Meanwhile, Judge Henri Jean-Paul Inting[5] brought to the attention of the Honorable Chief Justice Hilario G. Davide, Jr. other irregularities respondent was involved in. He submitted to the Deputy Court Administrator photocopies of complaints, fake receipts and a copy of a criminal complaint[6] for falsification of public document and estafa against respondent.

A second report[7] was submitted, as follows:

Parties Case No. Provisional

Receipt Fake

Receipt No.

Date of

Issuance Amount

PP vs. Jeremy S.

Ong 31-014826

3-07-01 P 5,000.00

PP vs. Onofre

Timbang 31-103558 12586906 5-15-01 1,000.00

PP vs. Ruth

Timbang 31-103558 12586907 5-15-01 1,000.00

PP vs. Grace

Timbang 31-103558 12586908 5-15-01 1,000.00

PP vs. Feliciano

Legaspi 31-109136 Prov. Rec. 3-08-02 12,000.00

PP vs. Adela

Vidad 31-97114 11770955 8-18-00 1,500.00

PP vs. Remedios

Cullamco 31-102927 13490968 12-14-00 1,000.00

On November 25, 2002, the OCA recommended that respondent be suspended and ordered to comment on the allegations against him.

The OCA also noted the arrest of respondent in an entrapment operation conducted by the National Bureau of Investigation. Together with another court employee, he was caught extorting P5,000 from a winning party litigant for the implementation of a certain court decision. This case is now the subject of A.M. No. 02-8-198.[8] The Third Division of this Court then issued a resolution[9] placing respondent under preventive suspension pending the investigation of the case.

A third report[10] was submitted on January 9, 2003, as follows:

Complainants Case No. Provisional

Receipt Fake

Receipt No.

Date of

Issuance Amount

Ana Marie J.  
Carticiano

3,000.00

Teodorico C.  
Braga, Jr.

7-23-02 2,500.00

Jovito Arias 31-104546 12586893 3-22-01 12,000.00

SPO3 Ariel &  
Engracia Aguilar 31-84391 6323262-63 6-6-97 2,000.00

Maria Ting 31-56584 20293697 3-22-99 10,000.00

Susan Gallardo 42-48651

45,000.00

Jimmy Tong 31-107576 12327477 9-19-01 12,000.00

This report was also referred to the OCA for evaluation, report and recommendation.

On April 21, 2003, the OCA issued a resolution again directing the respondent to comment on the allegations against him. Atty. Ortiz was also directed to submit an additional report to then Executive Judge Jose Catral Mendoza[11] who was tasked to conduct an investigation on the matter.

However, on April 23, 2003, in A.M No. 03-3-71-MeTC, the Third Division of this Court resolved to drop the respondent from the rolls for going on AWOL beginning October 3, 2002. His salaries and benefits were likewise ordered withheld.

Nonetheless, the investigation of the case at hand continued.

On June 18, 2003, the Third Division adopted the April 21, 2003 resolution of the OCA.

On September 3, 2003, additional cases of falsified receipts were reported, as follows:

| Complainants     | Case No.    | Provisional |
|------------------|-------------|-------------|
| Receipt No./Fake | Receipt No. | Date of     |
| Issuance         | Amount      |             |

1. SPO4 Feliciano U. Panitan 99758 11770953 5-8-2000 P6,000.00

2. Maristela G.  
Fandino 71797-807 11297817-27 8-15-1999 P32,000.00

Due to the promotion of Executive Judge Mendoza to the Court of Appeals, Executive Judge Natividad A. Giron-Dizon[12] took over the investigation. Pertinent portions of her report and recommendation[13] follow.

From the evidence adduced in this administrative matter, the Investigating Judge is persuaded that complainant

has preponderantly established his charge against the herein respondent. The evidence is overwhelming that respondent issued fake and provisional receipts of cash bonds for the provisional liberty of several accused. Despite all opportunities accorded to respondent to appear and present his countervailing evidence, he failed to do so. Hence, respondent's silence may be considered as an implied admission of guilt.

By issuing fake and provisional receipts covering the [accused's] cash bonds and the proceeds thereof converted to respondent's own benefit, to the damage and prejudice of the accused who posted said cash bonds, (he) blatantly degraded the judiciary and diminished the respect and regard of the people to the court and its personnel. Every employee of the judiciary should be an example of integrity, morality and honesty.

In this administrative case, the respondent's acts constitute serious misconduct, dishonesty and conduct unbecoming of a public servant. Hence, respondent does not deserve to stay any minute longer in the judicial service.

WHEREFORE, in view of the foregoing, it is hereby recommended that respondent LARRY DE GUZMAN, Branch Clerk of Court, Branch 31 Metropolitan Trial Court, Quezon City, be DISMISSED from the service considering the gravity of the charge against him, with forfeiture of all his benefits and with prejudice to re-employment in any branch or instrumentality of the government and also for the filing of the corresponding criminal case.

Finally, on March 18, 2004, the OCA issued its resolution:[14]

WHEREFORE, PREMISES CONSIDERED, it is respectfully recommended to this Honorable Court that:

1] respondent Larry de Guzman, Branch Clerk of Court, Metropolitan Trial Court, Quezon City, Branch 31, be held liable for unauthorized collection of cash bond and falsification of official receipts and thus be DISMISSED from the service with FORFEITURE of all retirement benefits including the monetary value of his terminal leave benefits; and

2] respondent is further DISQUALIFIED from being re-employed in any branch, agency, or instrumentality of the government, including government-owned-and-controlled corporations and government financial institutions.

We affirm.

It is noteworthy that throughout the entire process, and despite the many opportunities given to respondent, he refused to comment and present his side. The gravity of the charges and the weight of the evidence against him would have prompted an innocent man to come out and clear his name. However, he opted to maintain his silence.

The respondent's refusal to face the charges against him head-on is contrary to the principle in criminal law that the first impulse of an innocent man, when accused of wrongdoing, is to express his innocence at the first opportune time.[15] For his silence and inaction can easily be misinterpreted as a defiance to the directives issued, or worse, an admission of guilt.

We are therefore inclined to believe that the respondent is guilty of all the charges against him.

First, in demanding and receiving cash bond deposits without authority, respondent, as branch clerk of court, committed grave misconduct. This is in line with our ruling in *Madrid v. Ramirez*: [16]

Supreme Court Circular No. 13-92 dated March 1, 1992 enumerates the guidelines to be followed in making deposits or withdrawals of all collections from bailbonds, rental deposits and other fiduciary collections. The said circular is addressed to executive judges and clerks of court. It goes without saying, that fiduciary collections ought to be the responsibility of the clerk of court, not the branch clerk of court. This is to ensure that all the money received in trust are duly accounted for.

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The mere fact that Supreme Court Circular No. 13-92 is addressed to executive judges and clerks of court will not exculpate respondent from administrative sanction for its violation. With more reason, he should have turned over the money to the clerk of court and made sure that the official receipt therefore had been issued since the latter is the custodian of official receipts and fiduciary collections of the court. (emphasis ours)

Second, apart from the unauthorized collection of cash bond deposits, respondent issued fake receipts and unauthorized provisional receipts. Such can only be classified as dishonesty.

We have repeatedly warned clerks of court that dishonesty will not be countenanced as they definitely denigrate the image of courts of justice as havens of thievery and corruption. This Court has not and will never tolerate nor condone any conduct which will violate the norms of public accountability, and diminish or even tend to diminish the faith of the people in the justice system.[17]

Third, issuing orders of release to jail officers was clearly not part of his duties. The issuance of a release order is a judicial function, not an administrative one. He had no power to order the commitment or the release on bail of persons charged with penal offenses. In so doing, he arrogated to himself the authority to exercise judicial discretion and overstepped the boundaries of his function.[18]

We believe respondent is guilty of grave misconduct and dishonesty. The inculpatory acts committed by him are so grave as to call for the most severe administrative penalty. Dishonesty and grave misconduct, both being in the nature of a grave offense, carry the extreme penalty of dismissal from service with forfeiture of retirement benefits except accrued leave credits, and perpetual disqualification for re-employment in the government service. This penalty is in accordance with Sections 52 and 58 of the Revised Uniform Rules on Administrative Cases in the Civil Service.

WHEREFORE, respondent Larry de Guzman is hereby 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, and 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 complaints that may be filed against him.

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

### **SO ORDERED.**

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

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[1] Dated August 6, 2002, Rollo pp. 2-3.

[2] Clerk of Court VI, Office of the Clerk of Court, Metropolitan Trial Court, Quezon City.

[3] Branch 31, Metropolitan Trial Court, Quezon City.

[4] 1[st] Report dated 06 August 2002, Rollo, pp. 2-3.

[5] Acting Presiding Judge, Branch 31, Metropolitan Trial Court, Quezon City.

[6] Criminal complaint pending before the Office of the City Prosecutor for preliminary investigation filed by one Bernadeth A. Ramos, as per letter of Judge Inting dated September 25, 2002, Rollo, p. 26.

- [7] 2<sup>nd</sup> Report of Atty. Ortiz, Jr., dated August 23, 2002, Rollo, p. 16.
- [8] Currently pending, per OCA recommendation dated 5 November 2002, Rollo, pp. 56-57.
- [9] Dated January 13, 2003, Rollo, p. 58.
- [10] Rollo, p. 60.
- [11] Regional Trial Court, Quezon City.
- [12] Executive Judge, Regional Trial Court, Quezon City.
- [13] Dated January 6, 2004, Rollo, pp. 147-155.
- [14] Rollo, pp. 158-167.
- [15] Report on the Financial Audit Conducted at the Municipal Trial Courts of Bani, Alaminos and Lingayen in Pangasinan, A.M. No. 01-2-18-MTC, 5 December 2003, 417 SCRA 106.
- [16] 324 Phil. 651 (1996).
- [17] Office of the Court Administrator v. Atty. Galo, 373 Phil 483 (1999).
- [18] Re: Audit conducted on the books of accounts of former clerk of court Mr. Wenceslao P. Tinoy, MCTC, Talakag, Bukidnon, 435 Phil 493 (2002).

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