

RE: AUDIT CONDUCTED ON THE BOOKS OF ACCOUNTS OF FORMER CLERK OF COURT MR. WENCESLAO P. TINOY, MCTC, TALAKAG, BUKIDNON

A.M. No. 02-5-111-MCTC. August 07, 2002

Ponente: CARPIO, J.

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CARPIO, J.:

An audit conducted on the books of account of former Clerk of Court Mr. Wenceslao P. Tinoy of the Municipal Circuit Trial Court of Talakag, Bukidnon revealed a delay in remittances of Judiciary collections. Hence, this administrative matter.

The Facts

Wenceslao P. Tinoy (“Tinoy” for brevity) was the Clerk of Court of the Municipal Circuit Trial Court of Talakag, Bukidnon. Tinoy retired compulsorily on February 28, 2001. He was required to submit his cashbooks and other related documents for clearance purposes since he handled judiciary funds from January 1990 to February 28, 2001. Based on the documents presented to the Fiscal Monitoring Division of the Office of the Court Administrator, the audit revealed a delay in the remittances of judiciary collections, as follows:

For the Judiciary Development Fund:

Total collections for the period from January 1990 P 62,949.20

to February 2001

Less: Remittance made – January 1990 to 10,770.20

February 2001 _____

Unremitted Collections as of February 28, 2001 P 52,179.00

Less: Remittance made on

August 23, 2001 (after audit) P 47,352.00

September 6, 2001 (after audit) P 4,828.00 52,180.00

Final accountability on September 6, 2001 (P 1.00)

(excess payment)

For the Clerk of Court General Fund

Total collections for the period from August P 3,528.00

1996 to February 2001

Less: Remittance made on August 1996 to

February 2001 _____

Unremitted Collections as of February 28, 2001 P 3,528.00

Less: Remittances made thru PMO's on:

June 29, 2001 P 2,376.00

November 13, 2001 1,080.00

February 14, 2002 72.00 3,528.00

Final accountability on February 14, 2002 P 0.00

For the Fiduciary Fund:

Total collection for the period March 1995 to P402,700.00

February 28, 2001

Less: Withdrawals made for the same period 150, 000.00

Balance of Unwithdrawn Fiduciary Fund as P252,700.00

of 2/28/01

Less: MTO Balance as of February 28, 2001 229,700.00

Shortage as of February 28, 2001 P 23,000.00

Less: Deposit made on February 14, 2002

(one year after retirement) 23,000.00

Final accountability on February 14, 2002 P 0.00

Thus, from the tabulation, the unremitted and undeposited collections of Tinoy, as of his retirement date on February 28, 2001, amounted to Seventy Eight Thousand Seven Hundred Seven Pesos (P78,707.00).

When asked to explain the delayed remittances, Tinoy, in his letter dated April 2, 2002, stated that the delay was due to an oversight as the Money Orders were not mailed on time. It was only later when he discovered that the date of the Money Orders were about to expire. Thus, he had to change the Money Orders.

Tinoy claimed the collections for the General Fund were remitted on February 7, 2001. He explained that the delay in depositing P23,000.00 accruing to the Fiduciary Fund was due to a clerical error in computing the total amount of unwithdrawn Fiduciary Funds. He allegedly learned about this amount only when the Fiscal Monitoring Office of the Office of the Court Administrator advised him to deposit the amount with the Municipal Treasurer's Office at Talakag, Bukidnon.

OCA Report and Recommendation

The Court Administrator opined that the non-remittance on time of judiciary collections deprived the court of interest that could have been earned had the amounts been deposited in a bank. Moreover, undue delay by the clerk of court in the remittances of the amounts collected or a shortage in the amounts remitted constitutes neglect of duty or, at the very least, misfeasance, for which the clerk of court should be held administratively liable. Thus, the Court Administrator recommended that a fine of P5,000.00 be imposed on Tinoy for his failure to remit the

collections on time.

The Court's Ruling

The Court approves and adopts the recommendation of the Court Administrator.

Settled is the rule that a cash clerk is grossly negligent in performing his duty if he fails to deposit the JDF and Fiduciary Fund collections in accordance with Administrative Circulars Nos. 31-90 and 13-92.[1]

Administrative Circular No. 31-90 dated October 15, 1990 provides that in the RTC, MeTC, MTCC, MTC and MCTC, the JDF collections shall be deposited daily with an authorized government depository bank or private bank owned or controlled by the government as specified by the Chief Justice.[2] The collections shall be deposited "for the account of the Judiciary Development Fund, Supreme Court, Manila." If depositing daily is not possible, deposits shall be made "every second and third Fridays and at the end of every month." However, if collections for the Fund reach P500.00, the same "shall be deposited immediately even before the days above-indicated." If there is no branch of the authorized depository bank at the station of the judge concerned, "the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court, at the latest before 3:00 p.m. of that particular week."

Also,, Administrative Circular No. 13-92 provides that "all collections for bail bonds, rental deposits, and other fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with the authorized government depository bank." If there is no branch of an authorized depository bank, or even if there is but it is impractical to maintain deposits therein, all fiduciary fund collections shall be deposited by the clerk of court with the Provincial, City or Municipal Treasurer. The clerks of court are required to submit to the Chief Accountant of the Supreme Court a quarterly report on collections and remittances.

Tinoy was indeed grossly negligent in performing his duty when he failed to deposit the JDF and Fiduciary Fund collections in accordance with the applicable Administrative Circulars.

From the audit report, the unremitted and undeposited collections of Tinoy, as of his retirement date on February 28, 2001, amounted to Seventy Eight Thousand Seven Hundred Seven Pesos (P78,707.00), which he eventually restituted as follows:

Judiciary Development Fund (JDF):

August 23, 2001 P47,352.00

September 06, 2001 4,828.00 P52,180.00

General Fund (GF):

June 29, 2001 P 2,376.00

November 13, 2001 1,080.00

February 14, 2002 72.00 3,528.00

Fiduciary Fund (FF):

February 14, 2002 23,000.00

Total Amount restituted P78,708.00

Less: Actual shortage incurred 78,707.00

Excess Payment P 1.00

These are obviously delayed remittances and Tinoy's explanation of the delayed remittances is totally unacceptable.

A public office is a public trust. A public servant is expected to exhibit, at all times, the highest degree of honesty and integrity.[3] No position demands greater moral righteousness and uprightness from its occupant than the judicial office. Those connected with the dispensation of justice bear a heavy burden of responsibility. Clerks of Court in particular must be individuals of competence, honesty and probity, charged as they are with safeguarding the funds, properties and records of the court.

This Court has ordered the dismissal of clerks of court and other court personnel for failure to deposit fiduciary funds in authorized government depository banks.[4] We cannot countenance any conduct, act or omission, committed by those involved in administering justice, which violate the norm of public accountability and which diminish the faith of the people in the Judiciary.[5] Since Tinoy has compulsorily retired on February 28, 2001, he can only be fined in this administrative case.

WHEREFORE, as recommended by the Court Administrator, Wenceslao P. Tinoy is FINED Five Thousand Pesos (P5,000.00) to be deducted from his retirement benefits.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, and Corona, JJ., concur.

[1] JDF Anomaly in the RTC of Ligao, Albay, 255 SCRA 221 (1996).

[2] Then, the Philippine National Bank (PNB), now the Land Bank of the Philippines (LBP) pursuant to Administrative Circular No. 5-93 dated April 30, 1993.

[3] Judiciary Planning Development and Implementation Office vs. Calaguas, 256 SCRA 690 (1996).

[4] Rangel-Roque vs. Rivota, 302 SCRA 509 (1999).

[5] Re: Report of Justice Felipe B. Kalalo, 282 SCRA 61 (1997).

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