

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MARINA GARCIA PACHECO, CLERK OF COURT, MUNICIPAL CIRCUIT
TRIAL COURT, PAETE, LAGUNA, RESPONDENT.**

A.M. No. P-02-1625 (FORMERLY A.M. NO. 02-6-144-MCTC). August 04, 2010

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PER CURIAM:

This administrative case stems from an audit conducted by the Financial Audit Team, Office of the Court Administrator (FAT-OCA) in the Municipal Circuit Trial Court (MCTC) of Paete-Pakil-Pangil, Laguna on April 4, 2002 during the incumbency of respondent Marina Garcia Pacheco, Clerk of Court II therein.

The audit was prompted by a letter[1] from Christopher M. Aguilar, Utility Worker I of the court, alleging, among others, that Pacheco tampered with the duplicate and triplicate copies of court receipts; and that she failed to issue receipts for collected fines and forfeited bonds.

The initial report[2] of the FAT-OCA confirmed the veracity of Mr. Aguilar's allegations. The data under the payor and amount categories in the original copy of several receipts were not truthfully reflected in the triplicate copy, viz:

ORIGINAL COPY

TRIPLICATE COPY

Date

Payor

Amount

O.R. No.

Payor

Amount

9-28-2000

Potenciano de Guia, et al

P6,500.00

10514485

Imelda Reynoso

P20.00

9-28-2000

Imelda Reynoso

P1,200.00

10514483

Potenciano de Guia

P20.00

12-1-2000

Jeffrey Gagaring

P600.00

10514597

Edwin Batislog

P20.00

9-14-2000

Rolando Martinez, Romil Lizano, Antonio Dimaranan & Judy Araneta

P2,000.00

10514431

Violeta Mendoza

P20.00

11-28-2000

Lydia Ramos

P300.00

10514591

No name (DUPLICATE)

P20.00

11-6-2000

Alberto Cawasa

P300.00

10514543

Azucena Nine

P20.00

Respondent also failed to issue receipts for the following collected fines and forfeited bonds:

CRIMINAL CASE #

CASE TITLE

DATE OF SENTENCE

AMOUNT OF FINE/BOND FORFEITED

3376

People vs. Viola C. Ferol

October 25, 2001

P 10,000.00

4692

People vs. Pedro Rarela,
Letty Patana, Abe Galay

Feb. 08, 2002

P1,500.00 x 3=P4,500.00

P100 x 3= 300.00

P4,800.00

The report further revealed that Pacheco deposited court collections with the Rural Bank of Paete, Inc. instead of the Land Bank of the Philippines (LBP). It was also discovered that there was a discrepancy between the amount of bank deposits (P611,816.01) and withdrawals made (P581,816.01).

Adopting the OCA's recommendations in its Memorandum[3] dated June 7, 2002, the Court resolved to place respondent Pacheco on preventive suspension, and direct her to comment on the FAT-OCA report.[4]

In her Comment/Compliance[5] dated September 30, 2002, Pacheco explained that she deposited court collections with the Rural Bank of Paete because it is the bank nearest to the MCTC, and she was informed that LBP is the authorized depository bank of courts only on January 2002. She declared that she was able to transfer the court funds to LBP only on May 25, 2002 due to heavy workload.

Respondent blamed the bank for the inconsistency between the total amount of deposits and total amount of withdrawals. Respondent admitted that she tampered with the duplicate and triplicate copies of the receipts she issued. However, she alleged that the money derived from the tampered receipts was spent for the court's renovation. She stressed that she did not use court funds for her personal gain, and that she even used her personal money to pay for the renovation.

Lastly, respondent maintained that she issued receipts for forfeited cash bonds and fines. In support thereof, she appended photocopies of the said receipts.[6]

In a Resolution[7] dated November 18, 2002, the Court referred the administrative matter to the OCA for evaluation, report and recommendation.

Due to the insufficiency of necessary documents to establish Pacheco's exact financial accountabilities, the Fiscal Management Division, Court Management Office, OCA (FMD-CMO-OCA) conducted a re-examination of the cash and the accounts of MCTC, Paete, Laguna on April 21-25, 2008.

On June 12, 2008, the FMD-CMO-OCA submitted its report[8] disclosing that during her term, respondent Pacheco incurred cash shortages amounting to P169, 878.58, computed and detailed in this manner:

"Judiciary Development Fund (JDF)

Total Collections for the period from April 1985

to August 31, 2002

396,495.65

Less: Total Remittances for the same period

378,226.65

Balance of Accountability/Under-remittance

18,269.00

Clerk of Court General Fund (COGF)

Total Collections for the period from

October 1995 to August 31, 2002

70,241.14

Less: Total Remittances for the same period

70,161.14

Balance of Accountability/Under-remittance

80.00

Due to the unavailability of Ms. Pacheco's financial documents for the period April 1985 to December 2000, her accountability for the Judiciary Development Fund and Clerk of Court General Fund for the same period was arrived at based the entries/postings in the Subsidiary Ledger (SL) of the Revenue Section, Accounting Division, Office of the Court Administrator.

Of the total of P18,269.00 financial accountability in the JDF, P10,780.00 came from the tampered Official Receipts. Except for the "date[,] " all other entries in the original receipt issued by Ms. Pacheco were not truthfully reflected in the duplicate and the triplicate copies in violation of OCA Circular No. 22-94 which provides that the DUPLICATE and TRIPLICATE copies of the receipt will be carbon reproductions in all respects of whatever may have been written in the ORIGINAL. Ms. Pacheco resorted to this practice to conceal whatever collections she had misappropriated.

Fiduciary Fund (FF)

Total Collections for the period from

April 1994 to August 31, 2002

P1,205,985.62

Less: Total Withdrawals for the same period

934,395.62

Balance of Unwithdrawn FF as of 8/31/02

271,590.00

Deduct: Adjusted bank balance as of 8/31/02:

Bank Balance as of 8/31/02

89,126.74

Less: Unwithdrawn Interests as of 8/31/02

24,066.32

65,060.42

Balance of Accountability/Cash Shortage

206,529.58

Deduct: Deposits made by Ms. Pacheco on

May 30, 2003

55,000.00

Final Accountability/Cash Shortage

151,529.58

As of August 31, 2002, a cash shortage of P206,529.58 was uncovered in Ms. Pacheco's FF account. However, this was reduced to P151,529.58 when Ms. Pacheco deposited P55,000.00 to the court's FF account in the Land Bank of the Philippines, Siniloan, Laguna Branch on May 30, 2003."

In the interviews of the MCTC employees, it was found that contrary to Pacheco's claim, the expenses for court renovations were sourced from local funds and not from court collections. Sixteen (16) official receipts allocated for the Fiduciary Fund turned out to be missing and unaccounted for. Finally, the report affirmed that Pacheco indeed issued receipts for fines and forfeited bonds, and the amounts thereof were deposited to the proper accounts.

On October 20, 2008, based on a Memorandum[9] submitted by the OCA, the Court issued a Resolution[10] directing respondent Pacheco to reconstitute the cash shortages she incurred during her term by depositing the following amounts in their respective accounts:

Amount

Funds/Account

P18, 269.00

Judiciary Development Fund

80.00

Clerk of Court General Fund

___151,529.58

Fiduciary Fund

P169, 878.58

TOTAL

Respondent was likewise ordered to account for the missing official receipts with serial numbers 7989468, 7989478, 7989479, 7989482, 7989491, 7989492, 7989497, 10514053, 10514055, 10514056, 10514060, 10514062, 10514063, 10514064, 10514067 and 10514070.

The OCA was directed to file the appropriate criminal charges against Ms. Pacheco. To prevent her from leaving the country without settling the shortages, a Hold Departure Order was issued by the Court.[11]

On November 28, 2008, Pacheco filed a Motion for Reconsideration as to the Computation of Shortages/Missing Official Receipts[12] claiming that her final accountability should only be P95,529.28. She averred that the FMD-CMO-OCA's computation failed to deduct the withdrawals made by Acting Clerk of Court Carmen Regalado on September 24, 2002, March 18,

2003, February 18, 2003, October 4, 2003 and January 7, 2003 amounting to P57,000.00. She also asked for a period of six (6) months within which to reconstitute her cash shortages and to locate the missing receipts.[13]

The motion was referred to the OCA for evaluation, report and recommendation. In its report[14] dated March 20, 2009, the FMD-CMO-OCA maintained its original finding on the amount of respondent's cash shortages.

In a Memorandum[15] for Associate Justice Leonardo A. Quisumbing dated May 11, 2009, then Court Administrator Jose P. Perez[16] recommended the denial of respondent's motion for recomputation, as well as her plea for additional time.

In the same memorandum, Court Administrator Perez found respondent guilty of gross neglect of duty for her failure to ensure that all documents were properly filed, and all funds entrusted to her were well accounted for. Thus, the OCA recommended respondent's dismissal from service.

On June 10, 2009, the Court issued a Resolution[17] denying respondent's motion for recomputation and plea for additional time. The parties were asked to manifest if they were willing to submit the matter for resolution based on pleadings and documents on record. On June 17, 2009, respondent submitted her Manifestation[18] expressing her willingness to submit the matter for resolution based on pleadings filed.

The Court agrees with the OCA that respondent should be dismissed from the service.

No position demands greater moral righteousness and uprightness from its holder than a judicial office.[19] Those connected with the dispensation of justice, from the highest official to the lowliest clerk, carry a heavy burden of responsibility.[20] As front liners in the administration of justice, they should live up to the strictest standards of honesty and integrity.[21] The Court has been tireless in reminding employees involved in the administration of justice to faithfully adhere to their mandated duties and responsibilities. Whether committed by the highest judicial official or by the lowest member of the workforce, any act of impropriety can seriously erode the people's confidence in the Judiciary. As such, failure to live up to their avowed duty constitutes a transgression of the trust reposed on them as court officers and inevitably leads to the exercise of disciplinary authority.[22]

By these standards, respondent was found wanting, and her admission to tampering the duplicate and triplicate copies of the court's official receipts shows her blatant disregard for her responsibilities as an officer of the court.

She violated OCA Circular No. 22-94, which provides that the DUPLICATE and TRIPLICATE copies of court receipt must be carbon reproductions in all respects of whatever may have been written in the ORIGINAL.

Respondent's unsubstantiated explanation that she spent the money derived from the tampered receipts for renovations in the court, is unconvincing. The investigation and examination conducted by the OCA revealed the contrary, viz:

"Interview however with MCTC Paete employees proved that expenses for the court's renovation came from local funds and not from court collections. Ms. Pacheco's claim that she made a timely correction as to the collected fines/bonds covered by tampered receipts is also not true. Although, she issued another set of receipts (14925601 - 14925607) in lieu of the tampered receipts (10514485, 10514483, 10514597, 10514531, 10514591 and 10514543), she however made it appear that only the two (2) sets of receipts were issued on the same day by placing an identical date. As evidence, a set of Official Receipts issued by the Property Division, Office of the Court Administrator on July 12, 2001 was used by Ms. Pacheco in lieu of the tampered receipts which were all issued in CY 2000." [23]

If her allegations were indeed true, she should have submitted the corresponding disbursement vouchers for labor and purchase receipts of materials utilized in the court's renovation instead of the supposedly corrected receipts. As aptly stated by the OCA, her justification was a lame and desperate attempt to disguise the fact of malversation of the court's collections. In so doing, she was able to siphon off P10,780.00 from the Judiciary Development Fund (JDF) of the MCTC in the year 2000. [24] This amount forms part of the P18,269.00 under-remittances discovered in the MCTC's JDF during respondent clerk of court's tenure. [25]

Respondent also incurred cash shortages in the Clerk of Court General Fund (COGF) amounting to P80.00 for the period October 1995 to August 31, 2002, and P206,529.58 in the Fiduciary Fund from April 1994 to August 31, 2002. Her failure to remit these amounts upon demand by the auditing team and by this Court, in our Resolution dated October 20, 2008, [26] constitutes

prima facie evidence that she had, indeed, put such missing funds to personal use. [27] Corroboratively, nine months after having been placed on preventive suspension, respondent deposited P55,000.00 in the MCTC's fiduciary fund.

The fact that respondent is willing to pay her shortages does not free her from the consequences of her wrongdoing. As Clerk of Court, respondent is entrusted with delicate functions in the collection of legal fees. [28] She acts as cashier and disbursement officer of the court; and is tasked to collect and receive all monies paid as legal fees, deposits, fines and dues, and controls the disbursement of the same. [29] She is designated as custodian of the court's funds and revenues, records, properties and premises, and shall be liable for any loss or shortage thereof. [30] Hence, even when there is restitution of funds, unwarranted failure to fulfill these responsibilities deserves administrative sanction, and not even the full payment of the collection shortages will exempt the accountable officer from liability. [31]

Her failure to account for the shortage in the funds she was handling, to turn over money deposited with her, and to explain and present evidence thereon constitute gross neglect of duty, dishonesty and grave misconduct. [32] These grave offenses are punishable by dismissal under Rule IV, Section 52 of the Uniform Rules on Administrative Cases in the Civil Service. Her acts may, moreover, subject her to criminal liability.

As custodian of court funds and revenues, it was also her duty to immediately deposit the funds received by her with the authorized government depositories and not to keep the same in her custody. [33] Supreme Court Circular Nos. 13-92 and 5-93 provide the guidelines for the proper administration of court funds. SC Circular No. 13-92 directs that all fiduciary collections be deposited immediately by the Clerk of Court, upon receipt thereof, with an authorized depository bank. Per SC Circular No. 5-93, LBP is designated as the authorized government depository. [34]

The records show, however, that respondent deposited the court's collections from 1998 to 2002 with the Rural Bank of Paete instead of the LBP. Respondent cannot claim that she was informed of the foregoing rules on deposit only in 2002. SC Circular Nos. 5-93 and 13-92 were issued on April 30, 1993 and July 9, 1993, respectively. When she assumed her post as Clerk of Court II of the MCTC in 1998, it was her duty to know the

rules and regulations relative to her official tasks.

Her explanation that the transfer of the court's collections to the LBP only on May 5, 2002 was due to heavy workload, is unsatisfactory. As the chief administrative officer of the MCTC, respondent clerk of court is expected to develop a system to efficiently attend to all her tasks. It is the duty of clerks of court to perform their responsibilities faithfully, so that they can fully comply with circulars on deposits of collections.[35] Respondent's continuous violation of the aforesaid circulars only shows that she was grossly negligent in the performance of her duties. This negligence is further compounded by her failure to locate and present the 16 missing official receipts allocated for the Fiduciary Fund. Clearly, she has been remiss in her duties as a custodian of court records.

Verily, respondent's grave misdemeanors justify her severance from the service,[36] with forfeiture of all retirement benefits, except accrued leave credits, pursuant to current jurisprudence.[37]

We also agree with the OCA that the monetary value of Pacheco's accrued leave benefits can be applied to cover her cash shortages. Based on the records of the OCA's Leave Division, respondent has a total of 353.584 days leave credits. Its monetary value, in the amount of Three Hundred Ten Thousand Five Hundred Fifty Pesos and fifty seven centavos (P310, 550.57), can be used to restitute the shortages she incurred.

WHEREFORE, in view of the foregoing, respondent Marina Garcia Pacheco, Clerk of Court II of the Municipal Circuit Trial Court of Paete-Pakil-Pangil, Laguna is hereby found GUILTY of DISHONESTY, GRAVE MISCONDUCT and GROSS NEGLECT OF DUTY. She is DISMISSED from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations.

The Financial Management Office, Office of the Court Administrator is DIRECTED to process the cash value of the accrued leave benefits of respondent, dispensing with the documentary requirements, and to remit the amount of One Hundred Sixty Nine Thousand Eight Hundred Seventy - Eight Pesos and fifty eight centavos (P169,878.58) to the Metropolitan Circuit Trial Court of Paete-Pakil-Pangil, Laguna to be apportioned as follows:

Judiciary Development Fund

P 18,269.00

Clerk of Court General Fund

80.00

Fiduciary Fund

151,529.58

As to the remainder of respondent's accrued leave benefits, the release of the same must be subjected to the submission of the usual documentary requirements.

The Office of the Court Administrator is ORDERED to coordinate with the prosecution arm of the government to ensure the expeditious prosecution of respondent Pacheco for her criminal liability.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., and Mendoza, JJ., concur.

Velasco, Jr., and Perez, JJ., no part.

[1] Rollo, p. 156.

[2] Addressed to then Court Administrator Presbitero J. Velasco, Jr., id. at 2-7.

[3] Id. at 1.

[4] Id. at 8-9.

[5] Id. at 15-18.

[6] Id. at 19.

[7] Id. at 22.

[8] Id. at 29-41.

[9] Id. at 27-28.

[10] Id. at 42-43.

[11] Id. at 49-51.

[12] Id. at 58-61.

[13] Respondent's "MOTION FOR EXTENSION OF TIME IN COMPLIANCE TO THE RESOLUTION DATED OCTOBER 20, 2008," id at 64-65.

[14] Id. at 79-80.

[15] Id. at 83-90.

[16] Now Associate Justice of this Court.

[17] Rollo, pp. 91-92.

[18] Id. at 94-95.

[19] Re: Report on the Financial Audit Conducted in the Municipal Trial Court (MTC), Sta. Cruz, Davao Del Sur, A.M. No. 05-2-41-MTC, September 30, 2005, 471 SCRA 143; OCA v. Yan, 496 Phil. 843 (2005); citing Re: Memorandum dated September 27, 1999 of Ma. Corazon M. Molo, 459 Phil. 973 (2003).

[20] Report on the Financial Audit Conducted at the MCTC-Mabalacat, Pampanga, A.M. No. P-05-1989, October 20, 2005; In Re: Delayed Remittance of Collections of Odtuhan, 445 Phil. 220 (2003); Office of the Court Administrator v. Ibay, 441 Phil. 474 (2002).

[21] Chua v. Paas, A.M. No. P-05-1933, September 9, 2005, 469 SCRA 471.

[22] Office of the Court Administrator v. Ofilas, et al., A.M. No. P-05-1935, April 23, 2010.

[23] Supra note 8, at 31, 38.

[24] Supra note 15, at 85.

[25] Rollo, pp. 29-41.

[26] Id. at 42-43.

[27] Concerned Citizen v. Gabral, Jr., A.M. No. P-05-2098, December 15, 2005, 478 SCRA 13.

[28] Office of the Court Administrator v. Valera, A.M. No. P-06-2113, February 6, 2008, 544 SCRA 10.

[29] Office of the Court Administrator v. Valera, id.; Office of the Court Administrator v. Dureza-Aldevera, A.M. No. P-01-1499, September 26, 2006, 503 SCRA 18; Concerned Citizen v. Gabral, Jr., supra note 27; Re:Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan, A.M. No. 01-11-291-MTC, July 7, 2004, 433 SCRA 486, 494.

[30] Office of the Court Administrator v. Dureza-Aldevera, id. at 46; Office of the Court Administrator v. Fortaleza, 434 Phil. 511 (2002).

[31] Office of the Court Administrator v. Ofilas, et al., supra note 22.

[32] Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City, A.M. No. P-06-2140, June 26, 2006, 492 SCRA 469, 481.

[33] Commission on Audit v. Pamposa, AM No. P-07-2291, June 25, 2007, 525 SCRA 471, 475; Office of the Court Administrator v. Dureza-Aldevera, supra note 29, at 46; Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City, supra note 32, at 481; Re:Initial Report on the Financial Audit Conducted in the Municipal Trial Court of Pulilan, Bulacan, supra note 29, at 492.

[34] See Re: Report on the Financial Audit Conducted in the MTCC-OCC, Angeles City, id.; Cabato-Cortes v. Agtarap, 445 Phil. 66, 74 (2003).

[35] Office of the Court Administrator v. Bernardino et al., 490 Phil. 500 (2005), Re: Withholding of Other Emoluments of the Following Clerks of Court: Elsie C. Remoroza, et al., 456 Phil. 906 (2003).

[36] Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 99-1936, which took effect on September 27, 1999), Sec. 52. Classification of Offenses. -- Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. the following are grave offenses with their corresponding penalties:

- Dishonesty-1[st] offense-Dismissal
- Gross Neglect of Duty-1[st] offense-Dismissal
- Grave Misconduct-1[st] offense-Dismissal

[37] Office of the Court Administrator v. Librada Puno, A.M. No. P-03-1748, September 22, 2008, citing Office of the Court Administrator v. Nacuray, A.M. No. 03-1739, April 7, 2006, 486 SCRA 532, 543; Office of the Court Administrator v. Bernardino, supra note 35, see also: Rangel-Roque v. Rivota, 362 Phil. 136 (1999), citing Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte, 351 Phil. 1 (1998), Re: Financial Audit in RTC, General Santos City, 338 Phil. 13 (1997); Office of the Court Administrator v. Sumilang, 338 Phil. 28 (1977); JDF Anomaly in the RTC of Ligao, Albay, 325 Phil. 506 (1996); and Ferriols v. Hiam, A.M. No. P-90-414, August 9, 1993, 225 SCRA 205.

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