

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

Ponente: CARPIO, J.

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CARPIO, J.:

The Facts

The Financial Audit Team ("audit team") of the Office of the Court Administrator ("OCA") conducted an examination of the books of accounts of the Municipal Trial Court ("MTC") of Sta. Cruz, Davao del Sur. The examination covered the period from 11 July 1995 to 29 February 2004 during the incumbency of the late Mr. Damian G. Achas, Jr., the former Clerk of Court of the MTC, and the period from 1 March 2004 to 30 April 2004 during the incumbency of Ms. Virgencita B. Martel, the Acting Clerk of Court of the same MTC.

The audit team submitted the following findings:[1]

A. JUDICIARY DEVELOPMENT FUND (JDF)

The Accountable Officer incurred a shortage amounting to Six Thousand Eight Hundred Sixty Six Pesos (P6,866.00). This amount was arrived at as follows:

Total collections from April 1, 1995 to April 30, 2004

P 225,950.74

Less: Total remittance for the above period

219,084.74

Balance of Accountability as of April 30, 2004

P 6,866.00

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B. GENERAL FUND (GF):

The late Mr. Achas, Jr. has incurred a shortage in this Fund amounting to Six Thousand Five Hundred Forty Two Pesos (P6,542.00) as shown below:

Total collections from Sept., 1997 to December 31 , 2003

P 51,747.36

Less: Total remittance for the above period

45,205.36

Balance of Accountability as of Dec. 31, 2003

P 6,542.00

xxx xxx xxx

C. SPECIAL ALLOWANCE FOR JUSTICES & JUDGES (SAJJ):

For this Fund, the Clerk of Court incurred a shortage amounting to Thirty Five Pesos (P35.00) as shown below:

Total collections from Jan. 1 to April 30, 2004

P 1,607.00

Less: Total remittance for the above period

1,572.00

Balance of Accountability as of April 30, 2004

P 35.00

The audit team further made the following observations:[2]

1)

The cash bond collected on 11 September 1998 amounting to Eighteen Thousand Pesos (P18,000.00) was not deposited by Mr. Achas. This cash bond pertains to the case of People vs. Nacua, Sr., Case No. 3662 under OR#8169099 (Annex "3"). This bond was refunded to the bondsman on 25 September 1998.

2)

Edwin Sunga, the accused in People vs. Edwin Sunga, posted cash bond amounting to One Thousand Two Hundred Pesos (P1,200.00) only. However, the acknowledgement receipt (Annex "4") signed by Mr. Sunga disclosed that he received One Thousand Eight Hundred Pesos (P1,800.00).

This shows that the late Mr. Achas did not declare the Six Hundred Pesos (P600.00) he collected from Mr. Sunga.

3) People vs. Leonito Egos y Camiguino, et al., Case No. 3780

Records showed that Felix T. Laurente, one of the accused in this case, posted Five Thousand Pesos (P5,000.00) on 7 January 2000. The undertaking showed that OR#8169389 was issued to him (Annex "5.1"). However, verification of the triplicate copy of said OR disclosed that it was issued to Rogelio Palma Gil on 12 January 2000 in the amount of Three Thousand Pesos (P3,000.00) (Annex "5.2") as confirmed by the undertaking the latter signed on January 12, 2000 (Annex "5.3").

Another accused in the above stated case, Ros Ovey C. Corneja, posted cash bond amounting to Five Thousand Pesos (P5,000.00). In the undertaking, it was recorded that OR#8169391 was issued to him on 7 January 2000 (Annex "5.4"). Again, verification of the triplicate copy of this OR showed that it was issued to Daisy Casas on 7 February 2000 in the amount of Two Thousand Pesos (P2,000.00), (Annex "5.5").

The third accused in the above case posted also a cash bond amounting to Five Thousand Pesos (P5,000.00). The undertaking showed that OR#8169390 was issued to him on 7 January 2000 (Annex "5.6"). Similarly, the triplicate copy of the said OR showed that it was issued to Danilo Alair on 19 January 2000 in the amount of Two Thousand Pesos (P2,000.00), Annex "5.7".

4) People vs. Talipasan Dagadas y Musa, Case No. 3874-00

The order releasing the body of the said accused from prison stated therein OR#12098462 dated 2 February 2001 as the one issued for the cash bond posted amounting to Eight Thousand Pesos (P8,000.00), Annex "6.1". When the said official receipt was verified, it turned out that it was issued to Gerry Castro for Criminal Case No. 3878 in the amount of Five Thousand Pesos (P5,000.00) on 6 February 2001 (Annex "6.2").

5)

People vs. Edgardo C. Segovia, Criminal Case No. 3482

In this case, the order releasing the cash bond stated therein OR#6440947 as the official receipt issued to the above accused on 20 January 1997 (Annex "7.1"). Such official receipt was not among those issued by the Supreme Court, hence, an MTO receipt. Further verification of the official receipts issued, it turned out that OR# 8169069 dated 24 October 1997 was the one issued to him (Annex "7.2").

6)

People vs. Rafael Manos y Balagon, Case No. 3806

The order dated 5 March 2001 releasing the cash bond posted in the above case stated therein OR#8169393 dated 21 March 2000 as the one issued to the accused (Annex "8.1"). However, it was OR#12098451 dated 8 August 2000 which was actually issued to the said accused (Annex "8.2") and OR#8169393 was the one issued to Anna Liza Batislaon on 6 April 2000 (Annex "8.3").

7)

People vs. Celsa G. Soriano & Honey Flores, Case No. 3809-00

Here, both the undertaking for deposit of cash as bail and the order for the provisional liberty of Honey Flores states that it was OR#8169395 dated 11 April 2000 which was issued to her, in the amount of Three Thousand Pesos (P3,000.00), Annexes "9.1 & 9.2". When this particular OR was verified, it was not issued to the said accused but to Imelda Soria on 23 May 2000 in the same amount (Annex "9.3"). What was issued to Honey Flores was OR#12098459 dated 19 September 2000 (Annex "9.4"). The latter OR was issued for the cash bond of Honey Flores and Celsa Soriano amounting to Six Thousand Pesos (P6,000.00).

In the case of the second accused, Celsa Soriano, in her undertaking and order for provisional release, it was indicated therein that OR#8169393 dated 10 April 2000 amounting to Three Thousand Pesos (P3,000.00) was the one issued to her (Annex "9.5 & 9.6"). Such OR was actually issued to Anna Liza Bastilaon on 6 April 2000. The OR issued to Celsa Soriano was OR#12098459 dated September 19, 2000.

8)

People vs. Ronnel Ermac, Case No. 3741

The undertaking signed by the above accused indicated OR#8169379 dated 13 September 1999 in the amount of One Thousand Eight Hundred Pesos (P1,800.00), as the one issued to him (Annex "10.1"). However,

triplicate copy of this OR showed that it was issued to Sebastian Narit on 16 September 1999 in the amount of Twelve Thousand Pesos (P12,000.00), Annex "10.2". Audit of triplicate copies of official receipts revealed that it was OR#8169381 dated 15 October 1999 that was issued to him (Annex "10.3").

The wife of Mr. Achas informed the OCA of the death of her husband and requested that the accountability of her husband be deducted from his retirement benefits.

The OCA Report and Recommendation

The OCA adopted the recommendations submitted by the audit team, as follows:[3]

- The Finance Division FMO-OCA be DIRECTED to deduct from the retirement benefits of Mr. Damian G. Achas, Jr., the following:

a.)

SIX THOUSAND EIGHT HUNDRED SIXTY SIX PESOS (P6,866.00) representing his unremitted collections in the Judiciary Development Fund. Said amount shall be deposited to the Land Bank of the Philippines (LBP) JDF Account (LBP Savings Account No. 0591-0116-34);

b)

SIX THOUSAND FIVE HUNDRED FORTY TWO PESOS (P6,542.00) representing his unremitted collections in the General Fund. Said amount shall be deposited to the General Fund Account maintained by this Court with the LBP;

c)

THIRTY FIVE PESOS (P35.00), representing his unremitted collections in the Special Allowance for the Judiciary. This amount shall be deposited to the LBP Account No. 0591-1744-28.

Thereafter, to immediately INFORM the Fiscal Monitoring Division-CMO about the action

- A fine of Five Thousand Pesos (P5,000.00) be imposed on the late Mr. Damian G. Achas, Jr. for his failure to remit the judiciary funds on time in violation of SC Circular[s] and other issuances; as well as for the unexplained transaction as enumerated above.

- MS. VIRGENCITA B. MARTEL, Acting Clerk of Court, MTC-Sta. Cruz, Davao City, Davao Del Sur, be DIRECTED to (a) WITHDRAW from the Fiduciary Account, the total amount of P1,151.94, representing the unwithdrawn net interest for January to March, 2004 (P1,131.94) and from October, 1987 to June, 2003 (P20.00) (b) DEPOSIT the same to the JDF account, furnishing the Fiscal Monitoring Division with copy of deposit slip as proof of compliance, and (c) STRICTLY COMPLY with court circulars and issuances relative to the proper management of judiciary funds; and

- HON. JUDGE ERNESTO C. DELA CRUZ, Judge-Designate, MTC-Sta. Cruz, Davao Del Sur, be ENJOINED to MONITOR and ENSURE strict compliance of the SC Circulars not only concerning judicial matters but also with respect to financial concerns in order to uphold the confidence of the public to the judiciary.

The Court's Ruling

No position demands greater moral righteousness and uprightness from the occupant than a 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 integrity of the court and its proceedings. The conduct required of court personnel, from the presiding judge to the lowliest clerk,

must always be beyond reproach and circumscribed with a heavy burden of responsibility. As front-liners in the administration of justice, they should live up to the strictest standards of honesty and integrity.[4]

Safekeeping of public and trust funds is essential to an orderly administration of justice. No protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for public and trust funds.[5] A failure to turn over on time cash deposited with accountable public officers constitutes gross neglect of duty and gross dishonesty, if not malversation.[6] Gross neglect of duty and gross dishonesty are grave offenses under Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.[7] The penalty is dismissal even for the first offense. However, in the present case, dismissal from the service is no longer possible because of the death of Mr. Achas.

WHEREFORE, we find the late Mr. Damian G. Achas, Jr. liable for his failure to remit the judiciary funds in violation of Supreme Court circulars and other issuances. We FINE him P5,000 to be deducted from his retirement benefits.

The Finance Division-FMO of the Office of the Court Administrator shall deduct from the retirement benefits of Mr. Damian G. Achas, Jr., the following:

- a) P6,866 representing the unremitted collections for the Judiciary Development Fund. The Finance Division-FMO shall deposit this amount to the Land Bank of the Philippines, JDF Account (LBP Savings Account No. 0591-0116-34);
- b) P6,542 representing the unremitted collections for the General Fund. The Finance Division-FMO shall deposit this amount to the General Fund Account maintained by the Court with the Land Bank of the Philippines; and
- c) P35 representing the unremitted collections for the Special Allowances for the Judiciary. The Finance Division-FMO shall deposit this amount to the Land Bank of the Philippines (LBP Account No. 0591-1744-28). The Finance Division shall inform the Fiscal Monitoring Division-CMO of the action taken to implement this Decision.

We DIRECT Ms. Virgencita B. Martel, Acting Clerk of Court, MTC, Sta. Cruz, Davao City, Davao del Sur, to withdraw from the fiduciary account P1,151.94 representing the unwithdrawn net interest from January to March 2004 (amounting to P1,131.94) and from October 1987 to June 2003 (amounting to P20). She shall deposit these amounts to the JDF Account, furnishing the Fiscal Monitoring Division-CMO with a copy of the deposit slip as proof of compliance.

SO ORDERED.

Davide, Jr., Chairman, Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Memorandum for Court Administrator Presbitero J. Velasco, Jr. dated 28 January 2005.

[2] Ibid.

[3] Memorandum for Chief Justice Hilario G. Davide Jr. dated 28 January 2005.

[4] 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.

[5] Re: Misappropriation of the Judiciary Fund Collections by Ms. Juliet C. Banag, Clerk of Court, MTC, Plaridel, Bulacan, A.M. No. P-02-1641, 20 January 2004, 420 SCRA 150.

[6] Judge Dondiego v. Cuevas, Jr., 446 Phil. 514 (2003).

[7] Dated 31 August 1999.

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