

RE: FINAL REPORT ON THE FINANCIAL AUDIT CONDUCTED AT THE MUNICIPAL TRIAL COURT OF MIDSAYAP, NORTH COTABATO,

A.M. NO. 05-8-233-MTC. January 31, 2006

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PER CURIAM:

Since May 1998, Clerk of Court II Joselito S. Fontilla (Fontilla) of the Municipal Trial Court (MTC), Midsayap, North Cotabato, failed to submit the monthly reports of collections and deposits to the Accounting Division, Financial Management Office. [1] Thus, on May 31, 2004, an audit team proceeded to Midsayap, North Cotabato to conduct a cash count. [2]

In the course of the audit, the team required Freddie C. Eruela (Eruela), Clerk II of MTC-Midsayap, to produce the necessary documents as he was allegedly in-charge of the collections in the absence of Fontilla but he disclaimed knowledge of the whereabouts of the documents. However, when some members of the audit team returned to Midsayap on June 2, 2004, they found the missing documents in a sack under Eruela's table. This time, Eruela admitted that he had been assisting Fontilla in the collections and deposits of the Judiciary Development Fund (JDF) and Fiduciary Fund (FF).

In the investigation conducted by Presiding Judge Teresita Carreon-Llaban (Judge Carreon-Llaban), Eruela admitted that he altered the entries in the passbook of Savings Account (SA) No. 1001-0360-64 and made it appear that the total collections were deposited. He confessed that he and his officemates borrowed from the collections of the court; that some were erroneously deposited to the JDF account while the rest were stolen. [3]

In the report dated November 30, 2004, [4]the audit team noted that: (1) collections amounting to P3,060.00 were deposited to their corresponding fund accounts only after the cash count audit; (2) Fontilla did not submit the monthly reports for the FF and the General Fund (GF) while the last monthly report submitted for the JDF was in April 1998; (3) MTC-Midsayap started collecting fees for the GF only in October 2003 despite the mandate of Administrative Circular No. 11-94 dated June 28, 1994 to start collecting on August 1, 1994; (4) several official receipts were missing; (5) interest earned from the FF deposits from November 1996 to March 2004 (excluding the period July 2000 to June 2001 when the passbook for this deposit was missing) in the amount of P24,636.11 was not remitted to the JDF; (6) collections amounting to P174,000.00 were not deposited to the FF account and several entries in the passbook for SA No. 1001-0360-64 were altered to make it appear that the amounts deposited equal the amounts collected; and (7) the total accountability of Fontilla is P182,013.25 for the JDF and P298,086.72 for the FF.

In a Memorandum dated November 30, 2004, [5] Deputy Court Administrator Christopher O. Lock (DCA Lock) directed Eruela to explain his failure to submit for audit the documents relative to the cash count and the alterations found in the passbooks. [6] Eruela explained that he personally helped the team look for the audit documents. When they could not find the documents and after the team had left, he continued looking and found the documents inside the stock room. He stated that these were the sacks the team saw under his table. He alleged that he altered the entries in the passbook with no malice or intent to defraud and that he intended to pay any deficiency. [7]

In another Memorandum dated December 7, 2004, [8] DCA Lock directed Fontilla to explain his continued defiance in submitting the required monthly reports; his failure to collect the fees accruing to the GF from August 1, 1994 to September 30, 2003; and the alterations in the passbook of SA No. 1001-0360-64. Fontilla was also directed to account for the missing official receipts, as well as submit the missing passbook covering the period from August 10, 2000 to August 16, 2001, supporting documents of all FF withdrawals and other proofs of remittances to the JDF. Finally, Fontilla was ordered to pay the amounts of P182,013.25 and P298,086.76, representing the balance of his accountability for the JDF and the FF, respectively.

In a Memorandum dated August 15, 2005, [9] the Office of the Court Administrator (OCA) recomputed the accountability of Fontilla and found that it amounted to P2,855,987.36. Likewise, it found Fontilla accountable for the missing and unaccounted official receipts.

The OCA thus recommended [10]

- to docket the audit report as a regular administrative complaint against Fontilla and Eruela;
- to direct Fontilla to pay P182,013.25 and P2,673,974.11 representing his accountabilities for the JDF and FF and submit to the Fiscal Monitoring Division the unaccounted official receipts; [11]
- to adopt the recommendations of Judge Carreon-Llaban that Eruela be ordered to reconstitute the amount of P56,000.00 representing the altered amount of deposits and be suspended pending resolution of the administrative matter;
- to direct Alcantara to withdraw the interest income of FF deposits amounting to P24,636.11 and deposit the same to the JDF account; submit to the Fiscal Monitoring Division the corresponding withdrawal and deposit slips as proofs of compliance; exert all efforts to locate the unaccounted official receipts;
- to direct the National Bureau of Investigation to locate Fontilla and serve him a copy of the resolution of the Court on this matter; and
- to issue a Hold Departure Order against Fontilla and Eruela.

We agree with the findings of the OCA.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. [12] Those charged with the dispensation of justice, from the justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct at all times be characterized by propriety and decorum but, above all else, it must be beyond suspicion. [13]

Fontilla misappropriated the collections for the FF and JDF amounting to P2,673,974.11 and P182,013.25 respectively; failed to submit the monthly reports despite orders from the court; failed to collect fees accruing to the GF from August 1, 1994 to September 30, 2003; altered the passbooks of SA No. 1001-0360-64; neglected to keep the official receipts of the court; and has been absent from work without filing leave of absence.

It appears that in the Resolution of this Court dated March 30, 2005 [14] in Administrative Matter No. 05-2-37-MTC, [15] Fontilla was dropped from the rolls for having been absent without official leave since September 1, 2003 and his position as Clerk of Court II was declared vacant.

As regards Eruela, it is clear that he took advantage of his position. The audit report and the preliminary investigation show that he assisted Fontilla in the collection and deposit of the JDF and FF; hid the necessary documents from the audit team; altered the entries in the passbook of SA No. 1001-0360-64; appropriated the money from the collections of the court; and kept the altered deposit slips inside his drawer. His protestation that

he acted without malice is inconsistent with his acts of misappropriating the judiciary funds and altering the entries in the passbook to make it appear that the collections were deposited intact.

No position demands greater moral righteousness and uprightness from the occupant than does the judicial office. [16] The safekeeping of funds and collections is essential to the goal of an orderly administration of justice and no protestation of good faith can override the mandatory nature of the Circulars designed to promote full accountability for government funds. The failure to remit the funds in due time constitutes gross dishonesty and gross misconduct and even malversation of funds which cannot be countenanced by the Court for they diminish the faith of the people in the Judiciary. [17] The act of misappropriating judiciary funds constitutes dishonesty and grave misconduct which are grave offenses punished by dismissal [18] even if committed for the first time. [19]

WHEREFORE, in view of the foregoing, (1) Respondents Joselito S. Fontilla and Clerk II Freddie C. Eruela are found GUILTY of grave misconduct and dishonesty; (2) Respondent Freddie C. Eruela is ordered DISMISSED from the service effective immediately. All his retirement benefits, excluding earned leave credits, are ordered forfeited in favor of the government with prejudice to reemployment in any government office, including government-owned or controlled corporations. He is further ordered to reconstitute the amount of P56,000.00 representing the altered amount of deposits; (3) The Employees Leave Division, Office of Administrative Services-OCA is DIRECTED to compute the balance of respondent Freddie C. Eruela's accrued leave credits and forward the same to the Finance Division, Fiscal Management Office-OCA for the computation of its monetary value. The resulting amount, as well as other monetary benefits Eruela may still be entitled to, shall be applied as part of the restitution of the shortage; (4) Respondent Joselito S. Fontilla is directed to RESTITUTE the amount of P2,855,987.36 representing the unaccounted shortages in the Fiduciary Fund (P2,431,887.39) and Judiciary Development Fund (P182,013.25) and to SUBMIT to the Fiscal Monitoring Division, Court Management Office, this Office, the following unaccounted official receipts: 7844501-7844550; 7844551-7844600; 7844601-7844650; 7844651-7844700; 7844851-7844900; 7844901-7844950; 7844951-7845000; 5312501-5312550; 6356351-6356400; 9875001-9875050; 9875051-9875100; 11923451-11923500; 18121301-18121350; 18121401-18121450; 18121701-18121750; (5) Officer-in-Charge Jaime S. Alcantara is DIRECTED to withdraw the interest income of the Fiduciary Fund account and deposit the same to the Judiciary Development Fund; submit to the Fiscal Monitoring Division the corresponding withdrawal and deposit slips as proof of compliance and exert all efforts to locate the unaccounted official receipts; (6) The National Bureau of Investigation is DIRECTED to locate Joselito S. Fontilla and serve him a copy of this Decision; (7) The Office of the Court Administrator is DIRECTED to coordinate with the Department of Justice to ensure the expeditious prosecution of the criminal liabilities of respondents Joselito S. Fontilla and Freddie C. Eruela; (8) The Bureau of Immigration is DIRECTED to issue a Hold-Departure Order against respondents Joselito S. Fontilla and Freddie C. Eruela to prevent them from leaving the country.

SO ORDERED.

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

[1] Rollo, p. 1.

[2] Id. at 13.

[3] Id. at 43.

[4] Id. at 13-20.

[5] Id. at 36.

[6] Id.

[7] Id. at 39-40.

[8] Id. at 33-34.

[9] Id. at 1-15.

[10] Id. at 4-5.

[11] 7844501-7844550; 7844551-7844600; 7844601-7844650; 7844651-7844700; 7844851-7844900; 7844901-7844950; 7844951-7845000; 5312501-5312550; 6356351-6356400; 9875001-9875050; 9875051-9875100; 11923451-11923500; 18121301-18121350; 18121401-18121450; 18121701-18121750.

[12] CONSTITUTION, Art. XI, Sec. 1.

[13] In Re: Report on the Judicial and Financial Audit Conducted in the Municipal Trial Court in Cities, Koronadal City, A.M. No. 02-9-233-MTCC, April 27, 2005, 457 SCRA 356, 369.

[14] Rollo, p. 38.

[15] Re: Absence Without Official Leave [AWOL] of Mr. Joselito Fontilla, Clerk of Court II, Municipal Trial Court, Midsayap, North Cotabato.

[16] 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, December 5, 2003, 417 SCRA 106, 112.

[17] Cabato-Cortes v. Agtarap, 445 Phil. 66, 74 (2003).

[18] Office of the Court Administrator v. Bernardino, A.M. No. P-97-1258, January 31, 2005, 450 SCRA 88, 112.

[19] Uniform Rules on Administrative Cases in the Civil Service, Sec. 52.

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