

RE: REPORT ON THE FINANCIAL AUDIT CONDUCTED IN THE METROPOLITAN TRIAL COURT OF BUCAY, ABRA,*A.M. NO. P-06-2236 [FORMERLY A.M. NO. 06-7-225-MTC]. September 20, 2006*

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-06-7-225/>**TINGA, J.:**

This administrative matter arose from a financial audit conducted by the Court Management Office (CMO), Office of the Court Administrator (OCA), on the books of account of respondent Felix F. Balneg who optionally retired on 16 January 2005 as Clerk of Court of Metropolitan Trial Court (MTC)-Bucay, Abra.

The financial audit team from the CMO found several discrepancies in the issuance of receipts for and remittance of collections for the Judiciary Development Fund (JDF), Fiduciary Fund (FF), General Fund (GF), and Special Allowance for the Judiciary (SAJ) covering respondent's period of accountability from December 1987 to 4 January 2005.[1] The CMO found that there were unremitted JDF collections in the amount of P2,061.00.[2] It was also discovered that no Supreme Court (SC) official receipts (ORs) were issued for JDF collections from 18 August to 12 December 1987. The fiduciary collections were neither remitted to the Municipal Treasurer's Office or to a FF savings account with a Land Bank branch as mandated by OCA Circular No. 50-95,[3] with the unremitted fiduciary collections reaching the amount of P65,700.00. It was also found that respondent issued temporary receipts, instead of SC Ors, to bondsmen. Furthermore, the supposed GF collections were directly deposited by payers with the Municipal Treasurer and no fees were ever collected for the SAJ.

Consequently, in a Memorandum[4] dated 14 December 2004, the OCA directed respondent to restitute and/or deposit the unremitted JDF collections to the JDF savings account of the Supreme Court, and the unremitted FF collections to a FF savings account at the Landbank-Bangued, Abra Branch to be opened in the name of MTC-Bucay, Abra by the Acting Presiding Judge, Hon. Rosita B. Salazar, and the Clerk of Court/Officer-in-Charge, and to submit the machine-validated deposit slips therefor. The OCA likewise directed him to explain the aforementioned irregularities in the collection of legal fees and in the issuance of receipts.

In his letter-reply[5] dated 27 February 2006, respondent informed the OCA that he had already deposited, as directed, the amount of P2,061.00 representing the unremitted JDF collections as evidenced by the LBP deposit slip[6] dated 12 January 2005. However, as to the fiduciary collections, he declared that Judge Salazar could not open an FF savings account for the reason that he cannot produce the stated amount. He further explained that the Clerk of Court designate of MTC-Bucay had verified that the total fiduciary collections was only P48,400.00 and not P65,700.00. He explained that the cash bond in Case Nos. 2189-2196 amounting to P14,400.00 was withdrawn and refunded to the bondsman[7] while the correct amount of the cash bond in Case No. 2256 was P3,000.00 and not P6,000.00.[8] Offering no excuse or explanation for the shortage, respondent only prayed that the amount be deducted from his retirement benefits, particularly from his leave credits.

Anent the JDF collections for the period 18 August to 12 December 1987, respondent averred that there were no receipts issued therefor either because there were no JDF ORs available or there was no transaction made at that

time for which the JDF could be collected. As for the fiduciary collections, he averred that there were no FF ORs on hand so he was constrained to issue temporary receipts for cash bonds to bondsmen. Neither was he issued SAJ ORs or GF ORs and was consequently advised by the Judge to direct the payer to pay to the Municipal Treasurer and to submit the issued OR to the court. He would then note the corresponding OR numbers on the case records. Finally, he did not remit fiduciary collections to the Municipal Treasurer because he deemed that future withdrawals would not be easy. Neither did he deposit the same with the Land Bank primarily because there was no basis to make the deposits as he did not issue ORs for fiduciary collections as explained earlier.[9]

In its 6 July 2006 Memorandum,[10] the OCA found respondent remiss in his duty to promptly remit the P2,061.00 JDF collections to the proper custodian, in violation of Section 5-C of the JDF Procedural Guidelines under Administrative Circular No. 3-2000 dated 15 June 2000.[11] He remitted the amount only on 12 January 2005 after the lapse of several years following the actual collections and only after the OCA's directive, when collections should have been remitted at least on a monthly basis if daily remittance is not feasible. The OCA further found him remiss in his duty to deposit the fiduciary collections with the Land Bank or the Municipal Treasurer, as the case may be, in violation of Sections B(4) and (8) of OCA Circular No. 50-95 dated 11 October 1995.[12] While the OCA recommended that respondent's request for the deduction of the shortage from his retirement benefits be granted, it stressed that he must be penalized for his serious misconduct in consonance 'with this Court's ruling in *Re: Delayed Remittance of Collections of Teresita Lydia R. Odtuhan*, OIC, RTC, Br. 177, Pasay City[13] where respondent therein was fined P10,000.00.

Anent the other findings of discrepancy, the OCA found respondent's explanation unsatisfactory. It observed that respondent should have requisitioned ORs from the Property Division of OCA before he ran out of stock of OR booklets. Furthermore, he should have issued temporary receipts in the absence of the proper ORs. SC OR booklets, although assigned or set aside for specific funds, may be used for other funds in case of urgent need.

In closing, the OCA recommended that its Report be docketed as a regular administrative complaint against respondent and a fine of P10,000.00 imposed upon him for his delayed remittance of JDF collections and failure to deposit the fiduciary collections to a FF savings account under the name of MTC-Bucay, Abra at the Landbank-Bangued, Abra Branch.[14]

We agree with the OCA's findings but not with the recommended penalty which we modify in accordance with jurisprudence.

Failing to promptly remit JDF collections and to deposit fiduciary collections for unjustifiable cause constitute a serious breach of duty. Section 3-C of Administrative Circular No. 3-2000 provides that the daily collections for the JDF in the MTCs shall be deposited everyday with the nearest Land Bank branch for the account of the JDF, Supreme Court, Manila or if depositing daily is not possible, deposits for the JDF shall be at the end of every month. Meanwhile, paragraph B(4) of Circular No. 50-95 provides that the collections shall be deposited with the Land Bank by the Clerk of Court concerned within 24 hours upon receipt thereof.[15] This provision is not new as it is also found in Supreme Court Circular No. 13-92 issued on 1 March 1992.

Respondent readily admits his infractions, immediately restituting the shortage in the JDF collections when directed by the OCA and requesting that the verified amount of FF collections be deducted from his leave credit benefits. He, however, proffered not a single explanation for the delay in the JDF remittance as well as for the shortage in the fiduciary collections. In his 27 February 2006 letter, he simply stated that he did not deposit fiduciary collections with the Land Bank since he had no basis for making the deposits as he did not issue ORs therefor. Neither did he remit the same to the Municipal Treasurer because it would not be easy to withdraw them later on.

We find his explanation starkly specious. As found by the OCA, respondent issued temporary receipts for fiduciary collections. He could have easily used them in making the deposits with the Land Bank. If this was not possible, the circular mandates that the collections be remitted to the Municipal Treasurer. That the sums would be difficult to withdraw later on is irrelevant as it is not a matter of convenience. The guidelines set by the circular were designed to promote full accountability for public funds, a matter that respondent appears to have taken lightly. Upon making the collections, he was bound by law to turn over the funds immediately to the custody of the official or bank authorized to receive such trust or depository funds. His culpability is magnified by the fact that he cannot even produce the amount upon demand leading himself opens to suspicion that he misappropriated the same. Such whimsical and lackadaisical behavior is undeniably prejudicial to the best interest of the service. As a Clerk of Court, respondent is an essential and ranking officer of our judicial system who performs delicate fiscal and administrative functions vital to the proper administration of justice. As such, he is expected to perform his duties with utmost competence and integrity so as not to diminish the faith of the people in the judiciary.

We therefore deem too light the recommended penalty of P10,000.00. Respondent's acts constitute dishonesty and grave misconduct punishable by dismissal from the service. Contrary to the OCA's view, the instant case is not similar to the Odtuhan case. Respondent therein was fined for her delayed remittance of JDF collections. The Court, for humanitarian reasons, mitigated the penalty of dismissal considering her subsequent remittance of the entire amount and her affliction with ovarian cancer. Nevertheless, the Court did not eschew meting the extreme penalty of dismissal for similar acts.[16] In Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao del Norte,[17] the Court dismissed respondent Clerk of Court for his failure to properly remit his cash collections in order to serve as a clear warning to all clerks of court that this Court will not countenance dishonesty and malversation of funds.[18] We believe respondent must suffer the same fate. However, since he had applied for optional retirement, dismissal is no longer feasible. Nevertheless, the administrative disabilities inherent to the penalty of dismissal must perforce apply to him. Section 58(a) of the Uniform Rules on Administrative Cases in the Civil Service provides, to wit:

The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

It cannot be overstressed that a public office is a public trust and all public officers and employees must at all times be accountable to the people. This Court will not waver in its bounden duty to protect and uphold the integrity of our courts.

WHEREFORE, premises considered, we find respondent Felix F. Balneg GUILTY of Dishonesty and Grave Misconduct and hereby order the FORFEITURE of his retirement benefits, except accrued leave credits, with perpetual disqualification for reemployment in the government service.

Let the amount of P48,300.00 representing the shortage in respondent's fiduciary collections be DEDUCTED from his accrued leave credits.

SO ORDERED.

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

[1] Rollo, pp. 1-7.

[2] The first audit covering the period December 1987 to 22 September 2004 revealed unremitted JDF collections

in the amount of P1,951.00, The second audit covering the period 23 September 2004 to 4 January 2005 showed an additional P110.00 in unremitted collections.

[3] Issued by the OCA on 11 October 1995 outlining the guidelines and procedures in the manner of collections and deposits of Court Fiduciary Funds.

[4] Rollo, pp. 6-7.

[5] Id. at 8-9.

[6] Id. at 11.

[7] Id. at 16.

[8] Id. at 18.

[9] Id. at 8-9.

[10] Id. at 1-5.

[11] Systems and Procedures

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In the RTC, SDC, MeTC, MTCC, MTC, MCTC, and SCC. ½The daily collections for the Fund in these courts shall be deposited everyday with the local or nearest LBP branch For the account of the Judiciary Development Fund, Supreme Court, Manila - SAVINGS ACCOUNT No. 159-01163-1 or if depositing daily is not possible, deposits for the Fund shall be every second and third Fridays and at the end of every month, provided, however, that whenever collections for the Fund reach P500.00, the same shall be every second and third Fridays and deposited immediately even before the period above indicated.

x x x x

[12] Section B(4) provides:

All collections from bailbonds, rental deposits and other fiduciary collections shall be deposited within twenty four (24) hours by the Clerk of Court concerned, upon receipt thereof with the Land Bank of the Philippines.

Section B(8) provides:

In localities where there are no branches of the Land Bank of the Philippines, fiduciary collections shall be deposited by the Clerk of Court with the Provincial, City or Municipal Treasurer.

[13] A.M. No. 02-10-598-RTC, 11 February 2003, 397 SCRA 222.

[14] Rollo, pp. 4-5.

[15] Supra note 12.

[16] See Judge Mallare v. Ferry, 414 Phil. 286 (2001); Re: Reports on the Financial Audit in RTC, General Santos City, 338 Phil. 13 (1997).

[17] 351 Phil. 1 (1998).

[18] Id. at 22.

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