REPORT ON THE FINANCIAL AUDIT CONDUCTED IN THE MCTC-MADDELA, QUIRINO

A.M. No. P-09-2598 (Formerly A.M. No. 08-3-65-MCTC). February 12, 2009

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PER CURIAM:

This administrative case arose from a letter dated 19 May 2006 of Hon. Josephine B. Gayagay, then Acting Presiding Judge of the Municipal Circuit Trial Court (MCTC), Maddela-Nagtipunan, Quirino, addressed to the Court Administrator, informing the Court of the continuous absence without leave (AWOL) of Mrs. Francisca B. Dueñas, Clerk of Court II, of the same court, since 19 April 2006. Also, Judge Gayagay requested an immediate audit of Mrs. Dueñas's accountabilities since no report of her financial transactions have been submitted since 2005.

On 14 March 2007, the First Division of this Court issued a Resolution dropping Mrs. Dueñas from the rolls and declaring her position vacant, thus:

> It appearing from the records that Ms. Francisca B. Dueñas failed to submit her daily time records (DTRs)/bundy cards since April 2006 up to present and did not file any application for leave, the Court resolves:
>
> (1)
>
> to DROP Ms. Francisca B. Dueñas from the rolls effective 19 April 2006 for having been on Absence Without Official Leave [AWOL] since said date pursuant to Sec. 63, Rule XVI of the Omnibus Rules on Leave, as amended by Resolution No. 99-1885 dated August 23, 1999;
>
> (2)
>
> to INFORM Ms. Dueñas of her separation from the service at the address appearing on her 201 file, that is, Diduyon, Maddela, Quirino; and
>
> (3)
>
> to declare her position as Clerk of Court VACANT.

On 26 June 2006, Deputy Court Administrator Jose P. Perez confirmed the designation of Mrs. Evelyn P. Cadavis, Court Interpreter I, as Officer-in-Charge effective 19 April 2006.

A checklist of requirements dated 16 June 2006 was sent to Mrs. Dueñas, along with a directive for her to submit the documents needed to update her records as an accountable officer of the MCTC. Accordingly, a financial audit team was formed to examine all the records/documents for all funds of the MCTC for the period 1 January 1997 up to 31 January 2007.

During the internal control evaluation, the financial audit team asked for summation of the duties and responsibilities of the personnel involved in the collection and disbursement of funds of the MCTC.

In her compliance, Mrs. Cadavis informed the team that after her designation as Officer-in-Charge, she only issued receipts for the Judiciary Development Fund (JDF) and Special Allowance for the Judiciary Fund (SAJF) collections. The cash bonds for the Fiduciary Fund were duly deposited with and receipted by the Municipal Treasurer's Office of Maddela, Quirino. No disbursement/withdrawal of collections was made from the Fiduciary Fund during Mrs. Cadavis's period of accountability, from 19 April 2006 up to 31 January 2007.

Based on the documents presented, the financial audit team submitted the following report on the result of the audit it conducted on the books of accounts of Mrs. Dueñas (for the period 1 January 1997 to 18 April 2006) and Mrs. Cadavis (for the period 19 April 2006 to 31 January 2007):

A. Cash Count Examination

As of examination date, the court has unremittted collections amounting to One Hundred Pesos (P100.00) broken down to these funds: a) Judiciary Development Fund - P19.20; and b) Special allowance for the Judiciary Fund - P80.80. Both amounts were deposited to their respective accounts on 5 March 2007.

B. Missing Booklets of Official Receipts

The inventory of used and unused official receipts revealed that two (2) booklets of official receipts remain unaccounted. The following official receipts were not presented to the team as of audit date, to wit:

SERIAL NUMBERS FUND USED PERIOD COVERED

17509251-300 JDF 1/7/03-1/28/03

12883201-250 Fiduciary Fund 2/20/01-2/21/06

The following official receipts were unused as of cash count examination:

SERIAL NUMBERS QUANTITY

4912601-4913000 7 booklets

4913601-4914000 8 booklets

4912571-4912600 30 pcs.

4913561-4913600 40 pcs.

TOTAL 15 bklts. & 70 pcs.

It was observed that aside from the official receipts requisitioned from the Property Division, [Office of the Court Administrator (OCA)], the court also made use of twenty (20) booklets of official receipts from the Municipal Treasurer's Office for JDF and SAJF collections covering the period February 2005 to January 2006. Also, one (1) booklet bearing serial numbers 4912901-4912950 was borrowed and properly turned-over to the Regional Trial Court, Maddela, Quirino.

C. JUDICIARY DEVELOPMENT FUND

Mrs. Dueñas (1/1/97 to 4/18/06)

Total Collections ---------- P 135,241.90

Less: Total Remittances ---------- 131,033.40

Shortage ---------- P 4,208.50

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i. Delayed remittance of collections

Audit findings revealed that Mrs. Dueñas belatedly deposited the collections for JDF to its account. Starting year 2003, remittances were made several months after the date of collection, thus depriving the court of interests that should have been earned had the collections been deposited prudently. Also, collections were not remitted in full, indicating that Mrs. Dueñas misappropriated the collections for her personal use. Below is the summary of the delayed remittances:

PERIOD COVERED AMOUNT COLLECTED DATE REMITTED AMOUNT REMITTED

July-Sept 2003 P 8,406.00 9/15/03 & 9/30/03 P 8,279.00

Jan-May 2004 15,407.00 5/18/04 & 5/27/04 15,293.00

June-Aug 2004 9,446.00 8/4/04 7,922.00

Nov 2005-Feb 2006 3,986.60 2/2/06 980.00

Although, Mrs. Dueñas submitted monthly reports during the periods mentioned, it did not reflect any deposit for the said months. Instead, an accumulated deposit was made months after, which include collections for the previous months.

Mrs. Cadavis (4/19/06 to 1/31/07)

Total Collections ---------- P 16,615.00

Less: Total Remittances ---------- 16,813.20

Over-remittance ---------- P (198.20)

Over-remittance of collections amounting to P198.20 shall accrue to the account of the National Government.

D. GENERAL FUND

Mrs. Dueñas (1/1/97 to 11/10/03)

Total Collections ---------- P 47,629.90

Less: Total Remittances ---------- 47,741.90

Over-remittance ---------- P (112.00)

The over-remittance amounting to P112.00 shall accrue to the account of the National Government.

E. SPECIAL ALLOWANCE FOR THE JUDICIARY FUND

Mrs. Dueñas (11/11/03 to 4/18/06)

Total Collections ---------- P 62,425.40

Less: Total Remittances ---------- 48,222.60

Shortage ---------- P 14,202.80

i. Delayed remittance of collections

Similarly, delayed remittances were evidently observed in this fund. Collections accumulated and were deposited months after. Likewise, collections were not remitted in full, indicative of misappropriation of collections. Below

is the summary of the delayed remittances.

PERIOD COVERED AMOUNT COLLECTED DATE REMITTED AMOUNT REMITTED

Jan-May 2004 2,238.00 5/24/04 & 5/27/04 2,207.00

June-Aug 2004 1,205.00 8/4/04 830.00

Jan-Apr 2006 13,536.80 5/12/06 2,181.60

ii. Non-submission of Monthly Reports

Aside from the considerable delays in the remittances of collections, Mrs. Dueñas did not submit reports of collections and deposits for the said fund. The subsidiary ledger maintained by the Accounting Division, Financial Management Office, OCA shows that no monthly reports were submitted for the period December 2005 to March 2006.

Mrs. Cadavis (4/19/06 to 1/31/07)

Total Collections ---------- P 44,285.00

Less: Total Remittances ---------- 44,324.00

Over-remittance ---------- P (39.00)

Over-remittance of collections amounting to P39.00 shall accrue to the account of the National Government.

F. FIDUCIARY FUND

Mrs. Dueñas (1/1/97 to 4/18/06)

The court's Fiduciary Fund was last audited on 31 December 1996 and found no shortages and overages. For this audit period, the determination of collections was based solely on the cash books and monthly reports, since the triplicate copies of official receipts (for the period 20 February 2001 to 21 February 2006, or a period of 5 years) were found to be missing. To determine the withdrawals, the team was left with no choice but to base it on the available records of lawful court orders and acknowledgement receipts. Some withdrawals made on this account were not duly supported by court orders.

After examining and verifying evidential documents/records gathered by the team, initial audit findings revealed a shortage amounting to FOUR HUNDRED FOURTEEN THOUSAND ONE HUNDRED SIXTY FOUR PESOS & 82/100 (P414,164.82), computed as follows:

Total Collections (inclusive of the cash

Withdrawn from MTO and deposited

at the LBP, Cabarroguis Branch

amounting to P44,700.00) ---------- P 880,000.00

Less: Lawful withdrawals ---------- 465,600.00

Balance of Unwithdrawn Fiduciary Fund ---------- 414,400.00

Balance of Unwithdrawn Fiduciary Fund ---------- 414,400.00

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Balance per bank as of 4/30/06 under

LBP SA #0731-0345-16 ---------- 235.18

Shortage ---------- P414,164.82

Of the said shortage, the following amounts can be deducted upon presentation/submission of the supporting documents, i.e., lawful court orders and acknowledgement receipts to support the withdrawals of the cash bonds reported as withdrawn. In case the said documents will be submitted, the balance of Unwithdrawn Fiduciary Fund would amount to ONE HUNDRED FORTY NINE THOUSAND NINE HUNDRED PESOS (P149,900.00), broken down as follows:

Balance of Unwithdrawn Fiduciary Fund ---------- P 414,400.00

Less: Withdrawals with NO supporting documents

(subject for compliance)

Withdrawn cash bonds

with no court orders ----------P 7,000.00[*]

Withdrawn cash bonds with no

acknowledgment receipts ------ 247,500.00[**]

Withdrawn cash bonds

with no court order &

acknowledgment receipts ------- 10,000.00[***]

P 264,500.00

Unwithdrawn Fiduciary Fund 4/18/06 ---------- P 149,900.00

As a result, the shortage would now amount to:

Balance of Unwithdrawn Fiduciary Fund ---------- P 149,900.00

Balance per bank as of 4/30/06 under

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LBP SA # 0731-0345-16 ---------- P 235.18

Shortage ---------- P 149,664.82

Note:

[*] see Schedule 1
[**] see Schedule 2
[***]see Schedule 3

Hereunder are the respective schedules:

Schedule 1
Withdrawn cash bonds with NO attached court order

Date of
Collection OR
No. Date
Deposited Case
No. Name of
Litigant Date
Withdrawn
Amount

02/19/01 12883201 02/20/01 1579 Rogelio Laggui 06/05/02 2,000.00

03/08/02 12883210 03/13/02 1672 Leonito Apostol 06/20/02 5,000.00

TOTAL 7,000.00

Schedule 2

Withdrawn cash bonds with NO attached acknowledgement receipts

Date of
Collection OR
No. Date
Deposited Case
No. Name of
Litigant Date
Withdrawn
Amount

244954 02/02/96 1357-A Enrique Martinez date of co - 8/31/2005 3,500.00

03/03/97 5100670 03/13/97 3114 Rolieta Udani 08/19/97 1,000.00

04/22/99 5100682 06/25/99 56848-56852 Marilyn Ramirez 01/16/04 5,000.00

05/31/99 5100683 07/07/99 1608 Eddie Dacanay 04/05/04 3,000.00

10/01/99 5100686 10/26/99 1631 Wilmar Tamayo 10/20/05 10,000.00

06/30/00 5100693 07/05/00 1633 Jaime Nicolas 11/17/03 2,000.00

02/13/01 5100700 02/16/01 21-N Nestor Matias 09/27/05 10,000.00

09/20/01 12883208 09/26/01 1729 Enrique Adviento 07/08/04 2,000.00

10/25/02 12883215 10/30/02 1722 Alberto Quejada 07/08/04 1,000.00

06/23/03 12883219 - 1777 Mario Pili 08/04/03 6,000.00

06/24/03 12883220 - 1786 Mark Gregory Ladia date of co - 6/26/2003 5,000.00

06/24/03 12883221 - 1786 Mark Gregory Ladia date of co - 6/26/2003 5,000.00

05/20/04 12883223 05/27/04 1818 Jose Tugatog 07/08/04 5,000.00

09/10/04 12883228 09/15/04 1861 Sohang Guhadna 01/21/05 12,000.00

09/10/04 12883229 09/15/04 1821 Mario Barcelo 11/26/04 500.00

09/10/04 12883230 09/15/04 1822 Mario Barcelo 11/26/04 1,500.00

10/01/04 12883231 10/06/04 1865 Daniel Obtial date of co - 6/26/2006 12,000.00

01/07/05 12883233 01/14/05 1885 Junie Baculanta 01/21/05 3,000.00

01/21/05 12883234 01/24/05 1882 Lorena dela Cruz 09/28/05 5,000.00

01/21/05 12883235 01/24/05 1882 Rodolfo dela Cruz 09/28/05 5,000.00

02/08/05 12883236 02/14/05 1893 Jesus Respicio date of co - 3/16/2006 12,000.00

03/02/05 12883237 03/03/05 1881 Richard Roque date of co - 11/22/2005 20,000.00

03/03/05 12883238 03/04/05 1891 Zeny Fernandez 09/28/05 6,000.00

03/09/05 12883239 03/09/05 1897 Conrado Reyes date of co - 3/22/2006 7,000.00

04/20/05 12883241 04/20/05 1880 Lyn Lyn Duran 09/30/05 3,000.00

08/12/05 12883242 08/17/05 1930 Joseph Dulnuan date of co - 3/6/2006 60,000.00

09/21/05 12883243 09/22/05 1780 Rodrigo Camcam 10/19/05 4,000.00

09/27/05 12883244 Not deposited 1921 Samuel Ramiscal 10/05/05 8,000.00

10/20/05 12883245 10/24/05 1749 Jayflor Blanco date of co - 10/26/2005 10,000.00

11/21/05 12883247 Not deposited 1801 Zaldy Cristobal 11/22/05 10,000.00

11/21/05 12883249 Not deposited 1915 Arman Gaspar 01/10/06 10,000.00

TOTAL 247,500.00

Date of co-date of court order

Schedule 3
Withdrawn cash bond with NO attached court order &
acknowledgement receipt

Date of
Collection OR
No. Date
Deposited Case

No. Name of
Litigant Date
Withdrawn
Amount

05/27/02 12883213 06/05/02 1272 Johnson Galduen 08/05/04 10,000.00

TOTAL 10,000.00

Aside from the shortage incurred and withdrawn cash bonds with no attached supporting documents, the team also had the following observations:

i. Balance per bank as of May 31, 2006 amounted to P135.18

When the team requested for the passbooks used by Mrs. Dueñas during her incumbency, Mrs. Cadavis surrendered two (2) LBP passbooks under Savings Account No. 0731-0345-16 covering the periods: 02 February 1996 to 21 February 2001 and 19 March 2001 to 20 October 2005. The team was informed that the current passbook used by the court was not turned-over by Mrs. Dueñas and is still in her possession. Hon. Andrew P. Dulnuan, incumbent Presiding Judge, had retrieved copies of the bank statements/account history from the LBP, Cabarroguis Branch and upon scrutiny of the documents, it was discovered that Mrs. Dueñas made numerous withdrawals from October 20, 2005 to March 16, 2006, or a period of less than five (5) months, amounting to TWO HUNDRED FIFTY TWO THOUSAND FIVE HUNDRED PESOS P252,500.00), hence depleting the balance.

ii. Undeposited collections

It was established that there were instances that Mrs. Dueñas did not deposit her collections for this fund. Although some cash bonds listed hereunder were withdrawn with notations of "not deposited in bank due to early settlement" or "refunded to parties due to amicable settlement," there was no proof that the cash bond was acknowledged by the parties of the case.

Date of
Collection OR
No. Date
Deposited Case
No. Name of
Litigant
Amount

06/20/03 12883218 Not deposited 1775-1776 Julia Gaspar 3,200.00

06/23/03 12883219 Not deposited 1777 Mario Pili 6,000.00

06/24/03 12883220 Not deposited 1786 Mark Gregory Ladia 5,000.00

06/24/03 12883221 Not deposited 1786 Mark Gregory Ladia 5,000.00

09/08/03 12883222 Not deposited 1752 Junie Casar 3,000.00

09/27/05 12883244 Not deposited 1921 Samuel Ramiscal 8,000.00

11/21/05 12883247 Not deposited 1801 Zaldy Cristobal 10,000.00

10/20/05 12883248 Not deposited 368 Eliseo Sagabaen 30,000.00

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11/21/05 12883249 Not deposited 1915 Arman Gaspar 10,000.00

02/21/06 12883250 Not deposited 1943 Roland Colobong 20,000.00

TOTAL 100,200.00

iii. Delayed reporting of collected cash bonds

Aside from the undeposited collections, Mrs. Dueñas also delayed the reporting of the cash bonds collected. This clearly points out that Mrs. Dueñas used her collections for her benefit before reporting and depositing the same.

Date of Collection Date Reported No. of days Delayed OR No. Case No. Name of Litigant Amount

05/03/02 05/07/02 4 days 12883212 1745 Edwin Zabala 2,000.00

03/13/03 06/23/03 102 days 12883219 1777 Mario Pili 6,000.00

05/08/03 06/24/03 47 days 12883220 1786 Mark Gregory Ladia 5,000.00

05/08/03 06/24/03 47 days 12883221 1786 Mark Gregory Ladia 5,000.00

08/08/03 09/08/03 31 days 12883222 1752 Junie Casar 3,000.00

01/05/04 05/20/04 135 days 12883223 1818 Jose Tugatog 5,000.00

01/08/04 05/21/04 133 days 12883224 1790 Mario Rapisura 2,000.00

01/08/04 05/21/04 133 days 12883225 1790 Flordeliza Rapisura 2,000.00

01/08/04 05/21/04 133 days 12883226 1791 Sharone Vicitacion Rapisura 2,000.00

08/27/04 09/10/04 14 days 12883228 1861 Sohang Guhadna 12,000.00

08/27/04 09/10/04 14 days 12883229 1821 Mario Barcelo 500.00

08/27/04 09/10/04 14 days 12883230 1822 Mario Barcelo 1,500.00

iv. Request to release cash bond issued under OR# 12883248 dated 10/20/05 amounting to P30,000.00

In a letter addressed to Judge Dulnuan dated February 2, 2007, Mr. Eliseo M. Sagabaen notified the court of the supersedeas bond filed on October 20, 2005 amounting to P30,000.00 deposited with the court. Now that an order has been handed down by the court, Mr. Sagabaen requested for the release of the cash bond. Judge Dulnuan informed the team that since the bank account has been depleted, he has no recourse as to what action to take regarding the said request.

v. Unwithdrawn interest earned and bank charges

As of March 31, 2006, unwithdrawn interest amounting to THREE THOUSAND FIVE HUNDRED THIRTY TWO PESOS & 36/100 (P3,532.36) was not withdrawn and deposited to the JDF account. Also, since the outstanding balance was below the maintaining balance set by the bank, service charges were also deducted to the said account starting April 2006.

Mrs. Cadavis (4/19/06 to 1/31/07)

During this period, cash bonds were duly receipted and directly deposited to the Municipal Treasurer's Office, Maddela, Quirino. A certification to that effect was issued on March 2, 2007 by Gloria J. Fontanilla, Municipal Treasurer and Froilan R. Barroga, OIC-Municipal Accountant. The outstanding balance amounted to THIRTY SEVEN THOUSAND PESOS (P37,000.00) broken down as follows:

Name OR No. Date Amount

Ronald P. Corpuz ---------- 9835801 ---------- 5/9/06 ------ P25,000.00

Ariel Patricio and/or

Leopoldo Patricio ---------- 3607721 ---------- 10/19/06---- 12,000.00

G. RECAPITULATION

Fund Mrs. Dueñas Mrs. CADAVIS

JDF 4,208.50 (198.20)

General Fund (112.00) n/a

SAJ Fund 14,202.80 (39.00)

Fiduciary Fund 414,164.82 - 0 -

The equivalent money value of the total earned leave credits of Mrs. Dueñas as certified by Ms. Florence J. Bautista, SC Chief Judicial Staff Officer, Finance Division, Financial Management Office, OCA dated December 11, 2007 is TWO HUNDRED TWENTY EIGHT THOUSAND SEVEN HUNDRED SEVENTY EIGHT PESOS and 95/100 (P228,778.95), computed as follows:

TLB (Terminal Leave Benefits) = No. of accumulated leave x highest monthly salary received x .0478087 (constant factor)

267.007 days x P17,922.00 x .0478087 = P228,778.95

In view of its foregoing findings, the financial audit team recommended that:

- Mrs. FRANCISCA B. DUEÑAS, Clerk of Court II, Municipal Circuit Trial Court, Maddela-Nagtipunan, Quirino be DISMISSED from the service for gross dishonesty, grave misconduct and continuous absence without leave with forfeiture of all her benefits, including her accrued leave credits, and be DISQUALIFIED for reemployment in any government agency, including government owned and controlled corporation;

- The money value of the leave credits of Mrs. Dueñas amounting to TWO HUNDRED TWENTY EIGHT THOUSAND SEVEN HUNDRED SEVENTY EIGHT PESOS and 95/100 (P228,778.95) be applied as partial restitution of the computed shortages during her period of accountability as Clerk of Court of the Municipal Circuit Trial Court, Maddela-Nagtipunan, Quirino;

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- The Financial Management Office, OCA be DIRECTED to: a) apply the money value of the terminal leave pay to the shortage in the Fiduciary Fund of Mrs. Dueñas dispensing with the usual documentary requirements; b) release the said amount to the Officer-in-Charge, MCTC, Maddela-Nagtipunan, Quirino for deposit to the Fiduciary Fund;

- Mrs. FRANCISCA B. DUEÑAS, Clerk of Court II, Municipal Circuit Trial Court, Maddela-Nagtipunan, Quirino be DIRECTED to RESTITUTE within thirty (30) days from notice, the amount of TWO HUNDRED THREE THOUSAND SEVEN HUNDRED NINETY SEVEN PESOS and 17/100 (P203,797.17) representing the balance of her shortages after deducting the money value of her leave credits and SUBMIT to the Fiscal Monitoring Division, Court Management Office (CMO), OCA the machine validated deposit slips and certified photocopy of the passbook reflecting the deposit;

Hereunder are the shortages for the following funds:

a) Fiduciary Fund P414,164.82

Less: Amount of TLP

applied to her

accountabilities P228,778.95 P 185,385.87

b) Judiciary Development Fund P 4,208.50

c) Special Allowance for the

Judiciary Fund P 14,202.80

TOTAL P203,797.17

- Hon. ANDREW P. DULNUAN, Presiding Judge, Municipal Circuit Trial Court, Maddela-Nagtipunan, Quirino be DIRECTED to:

(a)

LOCATE the whereabouts of Mrs. Dueñas and personally serve a copy of the resolution directing Mrs. Dueñas to restitute her shortages; and

(b)

MONITOR the Officer-in-Charge in the strict adherence to the issuances of the Court, particularly the handling of judiciary funds;

- The National Bureau of Investigation be DIRECTED to cause the arrest of Mrs. Francisca B. Dueñas and to detain her until she complies with the directive in #4 hereof.

On 20 February 2008, the Office of the Court Administrator (OCA) adopted and endorsed the recommendation of the financial audit team for the approval of this Court.

We agree in the recommendation of the financial audit team, as adopted by the OCA.

Before being on AWOL, Mrs. Dueñas served as the Clerk of Court II of the MCTC.

The Clerk of Court is an important officer in our judicial system. His office is the nucleus of all court activities,

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adjudicative and administrative. His administrative functions are as vital to the prompt and proper administration of justice as his judicial duties.[1]

Supreme Court Circulars No. 13-92 and No. 5-93 provide the guidelines for the proper administration of court funds. SC Circular No. 13-92 mandates that all fiduciary collections "shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized depository bank." In SC Circular No. 5-93, the Land Bank was designated as the authorized government depository.

The Clerk of Court performs a very delicate function. He or she is the custodian of the court's funds and revenues, records, property and premises. Being the custodian thereof, the Clerk of Court is liable for any loss, shortage, destruction or impairment of said funds and property.[2] Hence, Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories, for they are not supposed to keep funds in their custody.[3] The same should be deposited immediately upon receipt thereof with the City, Municipal or Provincial Treasurer where the court is located.

Delayed remittance of cash collections by Clerks of Court and cash clerks constitutes gross neglect of duty.[4] The failure of a public officer to remit funds upon demand by an authorized officer shall be prima facie evidence that the public officer has put such missing funds or property to personal use.[5]

In Office of the Court Administrator v. Fortaleza,[6] we stressed the responsibility and accountability of Clerks of Court for the collected legal fees in their custody, thus:

> Clerks of Courts are the chief administrative officers of their respective courts; with regard to the collection of legal fees, they perform a delicate function as judicial officers entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by them at the very least constitutes misfeasance. On the other hand, a vital administrative function of a judge is the effective management of his court and this includes control of the conduct of the court's ministerial officers. It should be brought home to both that 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."

In Navallo v. Sandiganbayan,[7] we held that an accountable officer may be convicted of malversation even in the absence of direct proof of misappropriation as long as there is evidence of shortage in his accounts which he is unable to explain.[8]

Those who work in the judiciary, such as Mrs. Dueñas, must adhere to high ethical standards to preserve the court's good name and standing.[9] They should be examples of responsibility, competence and efficiency, and they must discharge their duties with due care and utmost diligence since they are officers of the court and agents of the law.[10] Indeed, any conduct, act or omission on the part of those who would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the judiciary shall not be countenanced.[11]

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.[12] As forerunners in the administration of justice, they ought to live up to the strictest standards of honesty and integrity, considering that their positions primarily involve service to the public.[13]

Given the results of the audit and investigation, Mrs. Dueñas has evidently failed to live up to the high ethical standards expected of court employees. She violated the trust reposed in her as Clerk of Court and disbursement officer of the judiciary as shown by the following incidents: (1) shortages in the Fiduciary Fund, Judiciary Development Fund and Special Allowances for the Judiciary Fund; (2) missing booklets of official receipts; (3)

belated deposit of the JDF collection; (4) delayed remittances of collections; (5) failure to submit reports of collections and deposits of funds; and (6) delayed reporting of collected cash bonds

The Court, therefore, is left with no other recourse but to declare Mrs. Dueñas guilty of dishonesty and gross misconduct, which are grave offenses punishable by dismissal.[14]

In Re: Report on the Judicial and Financial Audit of RTC-Br. 4, Panabo, Davao Del Norte,[15] we held that failure of the Clerk of Court to remit the court funds collected by the Municipal Treasurer constitutes gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service. Under Rule IV, Section 52-A of the Civil Service Uniform Rules on Administrative Cases in the Civil Service, these are grave offenses punishable by dismissal even when committed for the first time.

WHEREFORE, the Court finds respondent Francisca B. Dueñas, Clerk of Court II, MCTC, Maddela-Nagtipunan, Quirino, GUILTY of gross dishonesty, grave misconduct, and continuous absence without leave; and imposes on her the penalty of DISMISSAL from the service with forfeiture of all her leave credits and retirement benefits, with prejudice to re-employment in any government agency, including government-owned and controlled corporations. The Civil Service Commission is ordered to cancel her civil service eligibility, if any, in accordance with Section 9, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

The Court further orders:

- That the money value of the leave credits of Mrs. Dueñas amounting to TWO HUNDRED TWENTY-EIGHT THOUSAND SEVEN HUNDRED SEVENTY-EIGHT PESOS and 95/100 (P228,778.95) be applied to the partial restitution of the computed shortages during her period of accountability as Clerk of Court II of the MCTC, Maddela-Nagtipunan, Quirino;

- The Financial Management Office, OCA to: (a) apply the money value of the terminal leave pay to the shortage in the Fiduciary Fund of Mrs. Dueñas, dispensing with the usual documentary requirements; and (b) release the said amount to the Officer-in-Charge, MCTC, Maddela-Nagtipunan, Quirino for deposit to the Fiduciary Fund;

- Mrs. Dueñas to restitute within thirty (30) days from notice, the amount of TWO HUNDRED THREE THOUSAND SEVEN HUNDRED NINETY-SEVEN PESOS and 17/100 (P203,797.17) representing the balance of her shortages after deducting the money value of her leave credits and submit to the Fiscal Monitoring Division, Court Management Office, OCA, the machine validated deposit slips and certified photocopy of the passbook reflecting the deposit;

- Hon. ANDREW P. DULNUAN, Presiding Judge, MCTC, Maddela-Nagtipunan, Quirino, to:

- Locate the whereabouts of Mrs. Dueñas and personally serve a copy of this Decision directing Mrs. Dueñas to restitute her shortages; and

- Monitor the Officer-in-Charge in the strict adherence to the issuances of the Court, particularly the handling of judiciary funds;

- The National Bureau of Investigation to cause the arrest of Mrs. Dueñas and to detain her until she complies with the directive in No. 3 hereof; and

- The OCA to coordinate with the prosecution arm of the government to ensure the expeditious prosecution of the criminal liability of Mrs. Dueñas.

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SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

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[1] Re: Report on the Financial Audit Conducted in the RTC, Br. 34, Balaoan, La Union, A.M. No. 02-1-66-RTC, August 19, 2004, 437 SCRA 72, 78, citing Dizon v. Bawalan, 453 Phil. 125, 133 (2003).

[2] Office of the Court Administrator v. Fortaleza, 434 Phil. 511, 522 (2002), citing Office of the Court Administrator v. Bawalan, A.M. No. P-93-945, 24 March 1994, 231 SCRA 408, 411.

[3] Office of the Court Administrator v. Fortaleza, id., citing Office of the Court Administrator v. Galo, 373 Phil. 483, 491 (1999).

[4] Soria v. Oliveros, A.M. No. P-00-1372, 16 May 2005, 458 SCRA 410, 423.

[5] Office of the Court Administrator v. Besa, 437 Phil. 372, 380 (2002).

[6] Supra note 2 at 522.

[7] G.R. No. 97214, July 18, 1994, 234 SCRA 175; People v. Hipol, 454 Phil. 679, 690 (2003).

[8] Sollesta v. Mission, A.M. No. P-03-1755, 29 April 2005, 457 SCRA 519, 536.

[9] Gutierrez v. Quitalig, 448 Phil. 469, 478 (2003).

[10] Id. at 478-479.

[11] Id.

[12] Tudtud v. Caayon, A.M. No. P-02-1567, 28 March 2005, 454 SCRA 10, 14.

[13] Id.

[14] Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (Resolution No. 9-1936, which took effect on September 27, 1999) provides:

Section 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 - 1st Offense - Dismissal

- Gross Neglect of Duty - 1st Offense - Dismissal

- Grave Misconduct - 1st Offense - Dismissal

[15] 351 Phil. 1 (1998).

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