

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MS. ELENA M. ARROZA, CLERK OF COURT II, MCTC, MAGSAYSAY-RIZAL- CALINTAAN, OCCIDENTAL MINDORO, RESPONDENT.

A.M. No. P-19-3975 [Formerly A.M. No. 19-06-32-MCTC]. July 07, 2021

Ponente: INTING, J.

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INTING, J.:

The administrative matter stemmed from the financial audit of the books of accounts of the Municipal Circuit Trial Court (MCTC), Magsaysay-Rizal-Calintaan, Occidental Mindoro conducted by the Fiscal Monitoring Division (FMD), Court Management Office (CMO), Office of the Court Administrator (OCA) on December 5 and 6, 2018. The audit covered the accountability period of Ms. Elena M. Arroza, (COC Arroza) Clerk of Court II, MCTC, Magsaysay-Rizal-Calintaan, Occidental Mindoro from January 1, 2015 to October 31, 2018.[1]

In a Memorandum[2] dated September 11, 2018, the OCA requested for authority from the Court to withhold COC Arroza's salaries and allowances and recommended that she be relieved as Clerk of Court for her continuous failure to submit the required monthly financial reports despite notice. Then Chief Justice Teresita J. Leonardo-De Castro approved the request.[3] Hence, COC Arroza's salaries and allowances were withheld effective October 2018.

Based on records, the audit report⁴ dated May 21, 2019 yielded the following results:

1.

For the Fiduciary Fund (FF):[5]

Unwithdrawn FF, 1/1/15

P435,100.00

Add: Collections, 1/1/15 -10/31/18

P759,000.00

Total

P1,194,100.00

Less: Withdrawals, same period

P576,000.00

Unwithdrawn FF, 10/31/18

P618,100.00

Bank Balance, 10/31/18

P325,203.86

Add: Unwithdrawn Interest

P4,603.86

Adjusted Bank Balance, 10/31/18

P320,600.00

Unwithdrawn Fiduciary Fund,
10/31/18

P618,100.00

Less: Adjusted Bank Balance,
10/31/18

Balance of Accountability

P297,500.00

Deduct: Cash shortage incurred by former Presiding Judge A. Garillo, discovered in the previous audit

P81,500.00

COC Arroza's Accountability,
10/31/18

P216,000.00

2.

For the Sheriff's Trust Fund (STF);[6]

Beg. Balance 1/1/15

0.00

Collections, 1/1/15-10/31/18

P53,000.00

Total

P53,000.00

Less: Withdrawals for the same period

0.00

Unwithdrawn STF, 10/31/18

P53,000.00

Bank Balance, 10/31/18

P38,096.96

Less Unwithdrawn Net Interest

P96.96

Adjusted Bank Balance, 10/31/18

P38,000.00

Unwithdrawn STF, 10/31/18

P53,000.00

Adjusted Bank Balance, 10/31/18

P38,000.00

Balance of Accountability/Shortage

P15,000.00

3.

For the Judiciary Development Fund (JDF):[7]

Total Collections, 1/1/15 -10/31/18

P127,237.20

Less: Total Deposits

P76,476.80

Balance of Accountability/Shortage

P50,760.40

4.

For the Special Allowance for the Judiciary Fund (SAJF):[8]

Total Collections, 1/1/15 - 10/31/18

P340,675.20

Less: Total Deposits

P231,423.30

Balance of Accountability/Shortage

P109,251

5.

For the Mediation Fund (MF):[9]

Total Collections, 1/1/15- 10/31/18

P49,500.00

Less: Total Deposits

P28,000.00

Balance of Accountability

P21,500.00

The audit team discovered undeposited collections amounting to P415,512.30, viz.:

Funds Amount

Fiduciary Fund P219,000.00

Sheriff's Trust Fund P15,000.00

Judiciary Development Fund P50,760.40

Special Allowance for the Judiciary Fund P109,251.90

Mediation Fund P21,500.00

TOTAL

P415,512.30[10]

COC Arroza did not refute the undeposited collections. Instead, she promised to settle her financial accountabilities.[11]

In a Resolution[12] dated July 15, 2019, the Court, upon recommendation of the OCA,[13] resolved, among others, to: (1) docket the report as a regular administrative matter against COC Arroza for violation of OCA Circular 50-95 dated October 11, 1995 and Amended Administrative Circular No. (AC) 35-2004 dated August 20, 2004; (2) direct COC Arroza to reconstitute the cash shortages amounting to P415,512.30; and (3) explain in writing within 15 days why she should not be administratively and criminally charged for her non-remittance of

collections for the different judiciary funds, and her non- submission of monthly reports of collections, deposits, and withdrawals for the period from September 2017 to October 2018.[14]

In her Letter[15] dated September 10, 2019, COC Arroza readily admitted her infractions and stated that she used the funds collected in her personal affairs. While she did not explain the delay in the remittance and the shortage in the fiduciary collections, she, nonetheless, asked the Court for a second chance to continue her work in the judiciary. She stated that her son, who is struggling to finish college, rely on; on her for financial support because her husband, who was previously imprisoned in Dubai in 2012, does not have a stable job.[16]

On July 6, 2020, COC Arroza restituted the cash shortages amounting to P415,512.30 in compliance with the Court Resolution dated July 15, 2019.[17] She filed a Manifestation with Motion to Release Withheld Salaries and Other Allowances[18] requesting for the release of her withheld salaries and benefits from October 2018 to the present because she had already restituted all her cash shortages. She averred that she had suffered enough for the consequences of her actions and begs for compassion especially in this period of the pandemic.[19]

In a Memorandum[20] dated August 28, 2020, the OCA recommended that the withheld salaries and allowances of COC Arroza may be released without prejudice to the outcome of the administrative matter filed against her for failure to deposit the Collections of the Court within the prescribed period.

Our Ruling

At the outset, the Court stresses that not even full payment of the collection shortages will exempt the accountable officer from liability.[21]

A Clerk of Court like COC Arroza performs a very delicate function as the designated custodian of the Court's funds, revenues, records, properties, and premises. He or she is liable for any loss, shortage, destruction, or impairment of the funds and property.[22] "Any shortages in the amounts to be remitted and the delay in the actual remittance 'constitute gross neglect of duty for which the clerk of court shall be held administratively liable.'"[23]

For emphasis, the Court in *Office of the Court Administrator v. Fortaleza*[24] held:

As Clerk of Court, Mrs. Reformado is an accountable officer entrusted with the great responsibility of collecting money belonging to the funds of the Court. Regrettably, she abused the trust and confidence reposed upon her and did not perform her duty With utmost loyalty and honesty. Mrs. Reformado admitted that she used the money collected to defray the cost of the hospitalization of her ailing father who eventually succumbed to death and the cost of education of her children. Mrs. Reformado's predicament evokes our sympathy, but her situation cannot justify what she has done. The money collected are government funds. She had no right to use them for her personal needs. Failure of a Clerk of Court to turn over money deposited with him or her and to explain and present evidence thereon constitutes gross dishonesty, grave misconduct and even malversation of public funds. x x x [25] (Italics supplied).

In the case, COC Arroza, by her own admission, committed Gross Neglect of Duty and Grave Misconduct when she failed to turn over the funds of the Judiciary that were placed in her custody in violation of OCA Circular No. 50-95[26] and Amended AC 35-04[27] and appropriated the same for personal use. Her behavior should not be tolerated as it denigrates the Court's image and integrity.

Anent the proper penalty, Section 50(a) of Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service²⁸ classifies Gross Neglect of Duty and Grave Misconduct as a grave offense, the penalty for which is dismissal from the service even for the first offense.

In *Office of the Court Administrator v. Dalawis*,[29] the Court dismissed from the service the Clerk of Court

therein because she failed to remit her judiciary collections and appropriated them for personal use. Similarly, in Re: Report on the Financial Audit Conducted in the Municipal Trial Court, Labo, Camarines Norte,[30] the respondent Clerk of Court therein was meted out the penalty of dismissal from the service for her failure to remit her fiduciary collections amounting to P456,470.38 within the prescribed period.

Nevertheless, the Court has in the past mitigated the administrative penalties imposed upon erring judicial officers and employees for humanitarian reasons.[31]

In Report on the Financial Audit Conducted on the Books of Accounts of the MCTC, Mondragon-San Roque, Northern Samar,[32] the Court found therein respondent guilty of gross neglect of duty in which the supreme penalty of dismissal was imposed. Nonetheless, the Court considered the fact that he had subsequently remitted the subject amounts as mitigating circumstances that warrant the imposition of the lower penalty of suspension of one (1) month without pay.[33]

In In Re: Delayed Remittance of Collections of Odtuhan,[34] the Court considered therein respondent's subsequent remittance of the entire amount and her health in imposing a penalty of a fine instead of dismissal.[35]

In In Re: Misappropriation of the Judiciary Fund Collections,[36] the Court considered therein respondent's lack of bad faith, the fact that she fully remitted all her collections and that she has no outstanding accountabilities in imposing the penalty of a fine.[37]

In OCA v. Fontanilla,[38] the Court found that the penalty of P40,000.00 fine is sufficient taking into account that it was her first offense and that she immediately returned the withdrawals and complied with the directives of the audit team.[39]

In Office of the Court Administrator v. Viesca,[40] the Court, taking into account therein respondent's advanced age, her years of service, and the fact that it was her first offense reconsidered the penalty of dismissal initially meted out against her and instead imposed a fine of P50,000.00.

Recently, in Re: Final Report on the Financial Audit Conducted in the MCTC, Valladolid-San Enrique-Pulupandan, Negros Occidental,[41] the Court found respondent John O. Negropardo liable for failure to immediately deposit the various judiciary funds he received and imposed a fine of P50,000.00 in accordance with the ruling in Viesca.[42]

Similarly, COC Arroza already remitted the entire amount P415,512.30 in compliance with the Court Resolution dated July 15, 2019 and has no outstanding accountabilities. She also fully cooperated with the audit team during the investigation of her infractions and soon submitted the financial records without any irregularities. Verily, her act of taking full responsibility for the infractions committed and the fact that this is her first infraction, may be duly appreciated in imposing the penalty. Moreover, for humanitarian considerations, especially during this period of Coronavirus Disease 2019 pandemic which caused a severe disruption in the economic activities of our nation, the Court finds that dismissal from service may be too harsh. Instead, the Court imposes a fine of an amount equivalent to one (1) month salary to be deducted from her withheld salaries.

WHEREFORE, the Court finds Elena M. Arroza, Clerk of Court II, Municipal Circuit Trial Court, Magsaysay-Rizal-Calintaan, GUILTY of Gross Neglect of Duty and Grave Misconduct for her failure to make timely remittance of judiciary funds in her custody. The Court hereby orders her to pay a FINE equivalent to one (1) month salary, with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely.

The Finance Division, Financial Management Office, Office of the Court Administrator, is DIRECTED to

RELEASE the withheld salaries and benefits of Elena M. Arroza after deducting therefrom the amount representing the payment of the fine imposed upon her under this Resolution.

SO ORDERED.

Leonen, J. (Chairperson), Hernando, Rosario, and Lopez, J., JJ., concur.

[1] Rollo, p. 3.

[2] Id. at 14-15.

[3] Id. at 15.

[4] See Memorandum for Court Administrator Jose Midas P. Marquez entitled, "Re: Report on the Financial Audit Conducted in the Municipal Circuit Trial Court, Magsaysay-Rizal-Calintaan, Occidental Mindoro," id at 3-9.

[5] Id at 4.

[6] Id at 5.

[7] Id.

[8] Id.

[9] Id. at 6.

[10] Id.

[11] Id. at 7.

[12] Id. at 19-22.

[13] See Memorandum for Chief Justice Lucas P. Bersamin dated May 23, 2019, id. at 1-2.

[14] Id.

[15] Id. at 43-44.

[16] Id.

[17] See Letter dated July 6, 2020, id. at 55-56.

[18] Id. at 93-94.

[19] Id. at 94.

[20] Id. at 135-137.

[21] Re:Withholding of Other Emoluments, 456 Phil. 906, 917 (2003), citing Report on Anomalies of JDF Collections in MTCC, Angeles City, 326 Phil. 703, 708 (1996).

[22] Office of the Court Administrator v. Atty. Bawalan, 301 Phil. 414, 417 (1994).

[23] Office of the Court Administrator v. Acampado, 721 Phil. 12, 29-30 (2013), citing OCA v. Fontanilla, 695 Phil. 143, 149 (2012).

[24] 434 Phil. 511, (2002).

[25] Id at 522-523.

[26] Entitled, "Court Fiduciary Funds," approved on October 11, 1995.

[27] Entitled, "Guidelines in the Allocation of the Legal Fees Collected under Rule 141 of the Rules of Court, as amended, between the Special Allowance for the Judiciary Fund and the Judiciary Development Fund," approved on August 12, 2004.

[28] Civil Service Commission Resolution No. 1701077, approved on July 3, 2017.

[29] 827 Phil. 664 (2018).

[30] A.M. No. P-21-4102, January 5, 2021.

[31] In Re: Delayed Remittance of Collections of Odtuhan, 445 Phil. 220,226 (2003).

[32] 626 Phil. 425 (2010).

[33] Id. at 446_

[34] In Re: Delayed Remittance of Collections of Odtuhan, supra note 31.

[35] Id. at 226-227.

[36] 465 Phil. 24 (2004).

[37] Id. at 38.

[38] 695 Phil. 142 (2012).

[39] Id. at 151.

[40] 819 Phil. 582 (2017).

[41] AM. No. 20-06-18-MCTC, September 29, 2020.

[42] Id.

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