

**IN RE: REPORT ON THE AUDIT CONDUCTED ON THE CASHBOOKS OF
THEN CLERK OF COURT PRISCILLA HERNANDEZ OF THE RTC,
TANGUB CITY, MISAMIS OCCIDENTAL, NOW PRESIDING JUDGE OF
THE MCTC OF ...**

A.M. No. 94-9-297-RTC. December 22, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In her memorandum of 19 August 1994 to Deputy Court Administrator Bernardo P. Abesamis, Director Antonina A. Soria, Director III, Fiscal Audit Division of this Court, reported the results of the examination she conducted on the judicial cashbooks of the respondent, as the then Clerk of Court of the Regional Trial Court (RTC), Tangub City, Misamis Occidental. Her memorandum reads in part as follows:

"Last June 1993, the City Auditor of Tangub City conducted an audit of the cash and accounts of Atty. Hernandez covering the period from October 23, 1992 to June 15, 1993. The audit showed shortages totalling to P8,637.00. However, it was found out that the shortages were not directly incurred by her but by her designated Collecting Officer, Mr. Macutob, a Staff Assistant III. Although Mr. Macutob immediately restituted the whole amount, the Supreme Court, in its resolution dated March 11, 1994, dismissed Mr. Macutob from the service with forfeiture of all benefits and the Clerk of Court was not, in any way, made responsible for the irregularity.

When Clerk of Court Priscilla Hernandez was promoted as Judge last December, 1993, she was required by our Office to submit all her Judicial cashbooks together with other pertinent documents for audit purposes. Unfortunately, she was not able to comply with all the requirements. We were able to reconcile her cashbooks for Judiciary Development Fund and our audit shows a zero accountability. However, for Clerk of Court General Fund, there appears a shortage amounting to P412.00. It was arrived at as follows:

Total Collections from

1986 to November 1993 P25,341.89

Less: Total Remittances 24,929.89

Under-remittance P 412.00

As Clerk of Court, Atty. Hernandez has general administrative supervision over all personnel of said court. Even if Mr. Macutob was the designated collecting officer, still the Clerk of Court remains to be the Accountable Officer and, as such, must closely supervise the proper handling of collections and deposits to avoid any mishandling of government funds. As can be gleaned from the explanation given by Mr. Macutob on the En Banc Resolution dated March 11, 1994, it is always the practice to bring home daily collections and official receipts, an [sic] accountable forms, and nobody seems to mind that practice which is beyond the normal procedure. Added to this, how come Mr. Macutob was allowed to handle collections from June to November, 1993, inspite of the discovery of same irregularities last June 15, 1993.

At present, payment of salary and allowances of Judge Priscilla Hernandez were ordered withheld pending the outcome of our audit. But then, due to non-submission of the other requirements, it is impossible on our part to reconcile her books of accounts."

On 4 October 1994, the Court directed respondent Priscilla Hernandez to (a) submit immediately to the Office of the Court Administrator, for audit purposes, her cashbooks and other pertinent documents enumerated in the letter sent to her, dated 4 July 1994, by Director Soria, and (b) show cause why no disciplinary action should be taken against her for negligence and/or dishonesty in connection with the shortage found in the Clerk of Court General Fund in the amount of P412.00, within ten days from notice.

In her letter dated 16 November 1994 which was sent to this Court in compliance with the aforesaid resolution, the respondent informed the Court that even before her receipt of the resolution, she had already submitted to the office of Director Soria the cashbooks and other pertinent papers and, as to the shortage in the amount of P412.00, she had likewise submitted to the said office a copy of the remittance advice dated 7 June 1994 for the amount of P312.00 and had asked Mrs. Gloria Gripo, the OIC of the Office of the Clerk of Court, RTC, Branch 16, Tangub City, "to remit the underremittance of P100.00 to the Land Bank of the Philippines [at] Ozamis City."

After examining the cashbooks and additional documents submitted by the respondent, Director Soria submitted a memorandum to Deputy Court Administrator Abesamis on 1 December 1994 wherein she detailed her findings thus:

"(1) For Fiduciary Fund --

We were able to trace the discrepancy of P10,060.00 which was explained in the attached certification. The total Unwithdrawn Fiduciary Funds of P63,970.00 as of November 30, 1993 were duly accounted for and acknowledged by the new Officer-in-Charge, Ms. Gloria Gripo.

(2) For Clerk of Court General Fund --

The shortage of Four Hundred Twelve Pesos (412.00) was reduced to P100.00 only upon submission of a xerox copy of the validated remittance advice indicating thereat that the amount of P312.00 was already remitted last June 7, 1993 [sic]. Said shortage was already remitted under LBP O.R. No. 1134648 dated November 20, 1994.

(3) For Judiciary Development Fund -?

There appears an over-remittance of P35.00, arrived at as follows:

Total collections from

Oct. 1986 to Nov. 30,

1993 P65,481.14

Less: Total remittances

from Oct. 1986 to

Nov. 30, 1993 65,516.14

Over-remittance P 35.00

(4) For Sheriff General Fund --

We arrived at an audited balance of P480.78 representing under-remittance of collections. Due to non-availability of cashbook, our audit was limited to the official receipts submitted and it turned out that for the period from

December 1990 to August 1993, not a single remittance was made, hence, the shortage.

(5) For Sheriff Trust Fund --

There is only one collection for this account in the amount of P9,000.00 which was erroneously deposited to the Fiduciary Fund Account Number 012948 but same was already transferred to Account Number 13560 - RTC - Sheriff Trust Fund on July 11, 1994.

With these findings, it is requested that Judge Priscilla T. Hernandez be required to pay the shortages mentioned above to finally close her accounts so we can issue the corresponding Supreme Court clearance and in order that her salary and allowance as Judge may be released."

Thereafter, the Office of the Court Administrator evaluated the report of Director Soria and in its memorandum of 6 December 1994, made the following findings:

"From the records of this instant administrative matter, it was culled that the shortages in the Office of the Clerk of Court, RTC, Tangub City per audit conducted by the City Auditor of Tangub City were not directly incurred by then Clerk of Court Priscilla T. Hernandez but by her designated Collecting Officer, Mr. Nemesio Macutob, a Staff Assistant III. In the Resolution of this Court dated March 11, 1994, issued in A.M. No. P-94-1014, Mr. Macutob was dismissed from the service with forfeiture of all benefits and then Clerk of Court Priscilla Hernandez was not, in any way, made responsible for the irregularity.

Per audit findings of Mrs. Antonina A. Soria, Director III, Fiscal Audit Division, this Court, the Office of the Clerk of Court, RTC, Tangub City has a balance of unremitted collection for the Sheriff General Fund in the amount of P480.78 based on the documents submitted by then Clerk of Court Priscilla Hernandez.

While she (Hernandez) was not held responsible for the irregularities committed by Mr. Nemesio Macutob, sanction may be imposed upon her for negligence in not exercising strict supervision over her subordinates as then Clerk of Court and Accountable Officer of the RTC of Tangub City."

The Office of the Court Administrator then recommends:

"ACCORDINGLY, it is respectfully recommended that then Clerk of Court Priscilla T. Hernandez, now Presiding Judge of the MCTC, Jimenez Sinacaban, Misamis Occidental be directed to pay the amount of P480.78 for the shortage incurred in Sheriff General Fund, RTC, Tangub City, Misamis Occidental and a FINE of TWO THOUSAND PESOS (P2,000.00) be imposed upon her as then Clerk of Court for negligence in not strictly supervising her subordinates."

We agree with the findings of the Office of the Court Administrator that respondent Priscilla Hernandez was guilty of neglect of duty in failing to exercise due diligence in the supervision of a subordinate employee, Mr. Nemesio Macutob. As the Clerk of Court, she had general supervision over all personnel of her court and was its cashier and disbursement officer (Section A (1) and Section B, Chapter VII, Manual for Clerks of Court). As cashier and disbursement officer, it was her duty to collect and receive, by herself or through a duly appointed cashier, all monies in payment of all legal fees, as well as to receive deposits, fines, and dues. In the instant case, while Nemesio Macutob was the collecting officer, it was the respondent's duty to see to it that Macutob faithfully performed his duties and responsibilities as such to the end that there is full compliance with circulars on deposits of collections (see Circular No. 13-92, Circular No. 8A-93, and Circular No. 32-93 of the Office of the Court Administrator).

In her letter of 16 November 1994, the respondent admitted the shortage but claimed, nevertheless, that she had already remitted on 7 June 1994 the amount of P312.00 and had asked the OIC of the Office of the Clerk of Court,

RTC, Branch 16, Tangub City "to remit the underremittance of P100.00 to the Land Bank of the Philippines [at] Ozamis City." However, she opted not to deny her negligence by not showing cause, as required in the resolution, why she should not be administratively disciplined for such negligence, if not dishonesty.

We do not, however, find any dishonesty on the respondent's part. Nevertheless, we find the respondent's tacit admission of negligence to be a mitigating circumstance and considering that this is her first administrative offense, the fine recommended by the Office of the Court Administrator may be reduced to P500.00.

WHEREFORE, respondent PRISCILLA HERNANDEZ is hereby found guilty of neglect of duty in her then capacity as a Clerk of Court. She is hereby FINED in the amount of Five Hundred Pesos (P500.00) and ordered to pay the amount of Four Hundred Eighty Pesos and Seventy-Eight Centavos (P480.78) less any amount that she had already deposited. Upon payment of both, her withheld salaries as Judge shall be released to her.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

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