

BELEN P. FERRIOLS, COMPLAINANT, VS. NORMA HIAM, CLERK OF COURT, MTCC, BRANCH I, BATANGAS CITY, RESPONDENT.

A.M. No. P-90-414. August 09, 1993

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Per Curiam:

Pursuant to the resolution dated October 7, 1992 of this Court, the dispositive portion of which reads:

“WHEREFORE, as recommended, the Court hereby orders the auditor of the Office of the Court Administrator to conduct a financial audit of the Branch Clerk of Court, Norma P. Hiam of the MTCC, Branch I at Batangas City, within ninety (90) days from receipt of this resolution, and to submit a report of his findings and recommendations to this Court. Let a copy of Executive Judge Ernesto D. Mercado's Investigation Report be furnished the said auditor for his reference and guidance.” (p. 141, Rollo of A.M. No. P-90-414.)

Deputy Court Administrator Juanito S. Bernad ordered the auditor of the Office of the Court Administrator to conduct a financial audit of Branch Clerk of Court Norma Hiam of the Municipal Trial Court in Cities (MTCC), Branch I at Batangas City, who is charged with dishonesty, grave misconduct and neglect of duty by the court interpreter, Belen Ferriols. The report of Dimas Guevarra and Leandro L. Villanueva, staff of the Fiscal Audit Division, which was approved by Director III, Clara Lontoc-Guzman, contained the following findings:

"Mrs. Norma P. Hiam is the respondent in Administrative Matter No. 90-414 filed by Mrs. Belen Ferriols which charged that collections of cash bail bonds and fines, posted and paid by several accused were not deposited or remitted to the City Treasurer of Batangas City.

Audit Proper:

"The audit examination was confined to the seven Criminal Cases mentioned in the above-mentioned Administrative case and was the subject of an investigation by then Executive Judge, Honorable Ernesto D. Mercado of the Regional Trial Court of Batangas City stated as follows:

"A. Cash Bond

“Case No.

Title

Amount of

Cash Bond

Date Posted

18056

People of the Philippines vs. Arnel Samonte et. al.

P20,000.00

(4 accused at P5,000.00 ea.

9-5-88

18075

People of the Philippines vs. Rebecca Canovas

P500.00

9-5-88

18213

People of the Philippines vs. Graciano Sibulo et al.

2 accused at P600.00 ea.

9-5-88

“B. Fines

“Case No.

Title

Amount of

Fines

Date Paid

18104

People of the Philippines vs. Cynthia Abila

P200.00

1-26-88

18107

People of the Philippines vs. Lilibeth S. Torres

P200.00

1-25-88

18108

People of the Philippines vs. Marietta Guevarra

P200.00

1-25-88

18109

People of the Philippines vs. Margie Ijan

P200.00

1-25-88

"Criminal Case No. 18056 (Reported as Criminal Case No.18058 in the Investigation Report of Judge Ernesto Mercado)

"This case was filed on Sep-tember 5, 1988 and was dismissed on February 17, 1989. The total cash bail bonds in the amount of Twenty Thousand (P20,000.00) pesos posted by the four accused for their provi-sional liberty were ordered can-celled and released by Judge Ernesto Encarnacion upon dismissal of the said case. No record of deposits/withdrawals for the said amount was shown on the books of the City Treasurer. (Annexes A, B & C)

"Criminal Case No. 18075

"The case was filed on Novem-ber 6, 1987 against Rebecca Canovas for Grave Oral Defamation. Some documents of the case are missing and the records appear to be recon-stituted. The accused posted cash bail bond of Five Hundred (P500.00) pesos for her provisional liberty which was approved by that Court on February 10, 1988. An affidavit was executed by Rebecca Canovas that her case was permanently dismissed on November 15, 1990 (the Court Order for its dismissal could not be found) and her demand for the refund of the cash bond was denied by the then Presiding Judge, Pedro A. Marasigan for her failure to present the corresponding official receipt. (Annexes D, E & F)

"Criminal Case No. 18213

"Arnel Samonte and Graciano Sibulo (Not Gregorio Sibulo as per Investigation Report of Judge Ernes-to Mercado) are the accused in Criminal Case No. 18213. The cash bail bond for Arnel Samonte of Six Hundred (P600.00) pesos was posted on September 5, 1988 but deposited only to the City Treasurer of Batangas City on February 17, 1989 per Official Receipt No. 5127617 (5 months). The cash bond for the other accused, Mr. Graciano Sibulo of Six Hundred (P600.00) pesos was posted not at Batangas City but at MTCC, Lucena City under Official Receipt No. 1850291 on July 31, 1992. (Annexes G, H, I & J)

"Criminal Cases Nos. 18104, 18107, 18108 and 18109

"The records of the foregoing criminal cases on which the accused are sentenced by the Court to pay a fine of Two Hundred (P200.00) pesos each are missing and can no longer be found in the safekeeping vault of Branch I, MTCC, Batangas City as certified by Miss Cora Dalangin, incumbent Officer-in-Charge, Branch I of that Court. (Annexes K, L, M, N & O)

"Others

"In a verification letter we sent to the City Treasurer[']s Office on whether collections of cash bail bonds and fines were remitted to that Office, Mr. Juan Sugay, the Acting City Treasurer, within 3 days of receipt, issued a certification to the effect that no amount of money was received perti-nent to the seven cases mentioned earlier, except for the cash bail bond of Arnel Samonte in Criminal Case No. 18213 for P600.00. (Annexes P & Q)" (pp. 144-146, Rollo of A.M. No. P-90-414.)

The clerk of court may not keep funds in her custody. Monies received by the clerk of court "shall be deposited immediately x x x upon receipt thereof with the City, Municipal or Provincial Treasurer where his court is located." Supreme Court Circulars Nos. 5 dated November 25, 1982 and 5-A dated December 3, 1982 pro-vide:

"Circular No. 5

"x x x All collections of funds of a fiduciary character in-cluding rental deposits shall be deposited immediately by the Clerk of Court concerned upon receipt thereof with the City, Municipal or Provincial Treas-urer where his Court is locat-ed. x x x.

"Circular No. 5-A

"x x x By way of implementing Circular No. 5 dated November 25, 1982 directing the deposit of all collections of fiduciary funds including rental deposits by the Clerk of Court concerned with the City, Municipal or Provincial Treasurer where his Court is located, all Clerks of Court are hereby directed to use a Deposit Acceptance Order form for said purpose, a facsimile of which is hereto attached for their guidance and ready reference. x x x." (p. 146, Rollo of A.M. No. P-90-414.)

Section 93 of the Judiciary Act of 1948 likewise provides:

"The Judiciary Act of 1948

"x x x Section 93. Moneys Paid into Municipal or City Courts - By whom to be received. All moneys accruing to the Government in municipal or city courts, including fees, fines, forfeitures, costs, or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the Municipal or city treasurer, or in the City of Manila by the city treasur-er, for disposition according to law: PROVIDED, however, That all moneys paid in the nature of fines and costs by persons convicted for violations of municipal or city ordinances shall accrue exclu-sively to the city, Municipali-ty or municipal district in meeting its obligations as defined under sections seventy-four and seventy-five of this Act, as amended. (RA No. 5468) x x x" (pp. 146-147, Rollo of A.M. No. P-90-414; Underlining ours.)

Clearly, Clerk of Court Norma Hiam had no authori-ty to collect, much less keep in her custody, cash bail bonds and fines in criminal cases. Her failure to remit the funds to the City Treasurer of Batangas City consti-tutes serious misconduct prejudicial to the service. Worse, her misappropriation of the funds for her person-al benefit constitutes dishonesty which is punishable both administratively and criminally as an offense under the Penal Code.

WHEREFORE, in A.M. No. P-90-414, "Belen P. Ferri-ols vs. Norma Hiam, Clerk of Court," the Court finds respondent Norma Hiam GUILTY of dishonesty and serious misconduct prejudicial to the best interest of the service and hereby orders her immediate DISMISSAL from the service with forfeiture of all retirement benefits due her except the money value of her accrued leaves. She is hereafter disqualified for reemployment in the government service, including government-owned or con-trolled corporations. She is further ordered to deposit in the Office of the City Treasurer of Batangas City, within ten (10) days from notice, the sum of P20,800.00 which represents the cash bail bonds of the four (4) accused in Criminal Case No. 18056 and the fines totall-ing P800.00 paid by four (4) other accused in Criminal Cases Nos. 18104, 18107, 18108 and 18109, which she collected but failed to remit to the City Treasurer of Batangas City as required by law.

With respect to Hiam's countercharge against Ferriols (A.M. No. P-90-531) alleging that the latter collected costs in 304 criminal cases and fines in 3 criminal cases which she did not remit to the City Treasurer of Batangas City, the same is DISMISSED for lack of evidence, as recommended by Executive Judge Ernesto D. Mercado.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

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