

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ATTY. MARILOU DUREZA-ALDEVERA CLERK OF COURT, RTC, DAVAO CITY, AND TERESITA M. ELEGINO, CASH CLERK III, SAME COURT, RESPONDENTS.

A.M. NO. P-01-1499. September 26, 2006

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d15847b02d86/>

PER CURIAM

This is an administrative case against respondents Clerk of Court Marilou Dureza-Aldevera and Cash Clerk Teresita M. Elegino for the cash shortages and infractions discovered in the Office of the Clerk of Court, Regional Trial Court (RTC), Davao City during an audit conducted in April 2000 and February 2001.

Due to reports of fiscal irregularities being committed in the Office of the Clerk of Court, Regional Trial Court, Davao City, then Court Administrator Alfredo L. Benipayo directed Verina F. Yap, Head of the Fiscal Monitoring Division of the Court Management Office, Office of the Court Administrator (OCA), to form a team and conduct a surprise audit of the accountabilities of respondent Atty. Marilou D. Aldevera, Clerk of Court of the Regional Trial Court, Davao City.

On April 5, 2000, the audit team went to Davao City and proceeded to the Office of the Clerk of Court. They made a cash count of the contents of the vault and found P373,337.16 in currency; twelve (12) manager's checks from different banks amounting to P280, 615.36; six (6) postal money orders amounting to P1,150; one (1) check dividend from the Supreme Court Savings and Loan Association amounting to P160; forty-six (46) salary checks and seventeen (17) checks representing rice allowances of court personnel amounting to a total of P174,019.50. The inventory of cash and cash items totaled P829,282.02. The next day, Atty. Aldevera deposited the checks found in the vault in the account for the Fiduciary Fund.

After making a preliminary finding, the team took custody of the records of the Clerk of Court. They returned to Manila to further determine the exact status of the accountabilities of respondent Clerk of Court.

The Partial Report dated July 18, 2000 of the Financial Audit Team covered only the Judiciary Development Fund, Clerk of Court General Fund, Sheriff's General Fund and Sheriff's Trust Fund. It was reported that there was a shortage in the Sheriff's General Fund and Sheriff's Trust Fund in the amount of P2,959.21 and P229,283.85, respectively. While there was over-remittance in the Judiciary Development Fund (JDF) and Clerk of Court General Fund (CoCGF) in the amount of P71,053.34 and P133,603.90, respectively. Over-remittance in the JDF was attributed to improper recording of collections. While over-remittance in the CoCGF, was attributed to non-issuance of the corresponding receipt upon the transfer of forfeited bonds from the Fiduciary Fund to the CoCGF.

In a Resolution^[1] dated October 24, 2000, the Court resolved to:

x x x

- (b) SUSPEND Ms. Teresita Elegino from office pending resolution on this audit report;
- (c) DIRECT Atty. Marilou D. Aldevera and Ms. Teresita Elegino to: (c-1) explain why no administrative sanction shall be imposed upon them based on the result of the audit findings and (c-2) reconstitute the shortages for Sheriff General Fund and Sheriff Trust Fund amounting to P2,959.21 and P229,283.85, respectively; x x x
- (d) DIRECT the Fiscal Management and Budget Office, this Court, and the Financial Management Office, OCA, to WITHHOLD the salaries, allowances and other benefits of Atty. Aldevera and Ms. Elegino to cover possible shortages that may be found after the audit of the Fiduciary Fund account; and
- (e) DIRECT Atty. Aldevera to explain why she signed the Daily Time Record of Ms. Elegino without reflecting her absence on 18 April 2000.

On January 12, 2001, respondent Elegino filed a Manifestation^[2] informing the Court that she had restituted the shortage of P229,283.85 in the Sheriff's Trust Fund, which was supported by two deposit slips.^[3] She, however, did not file an Explanation in compliance with the Court Resolution of October 24, 2000.

On the other hand, Atty. Aldevera filed an Explanation^[4] dated January 15, 2001. She informed the Court that respondent Elegino had fully restituted the shortages in the Sheriff's General Fund and the Sheriff's Trust Fund. She also appended thereto her letter dated November 22, 2000 directing Elegino to immediately reconstitute the shortage of P229,283.85 in the Sheriff's Trust Fund. She explained that all the anomalies had been committed by Elegino without her knowledge, participation or connivance. She pointed out that Elegino executed an Undertaking^[5] stating that Elegino "assume[s] full money accountability for all shortages in the collections that may be found by the auditing team during the audit."

Atty. Aldevera stated that long before she assumed the position of Clerk of Court in 1989, Elegino had already been performing the duties of a cash clerk/cashier under her (Aldevera's) predecessors. Elegino performed the task of handling, depositing, recording of cash and check deposits. She was the exclusive custodian of all records and documents pertaining to the cash, money and other payments handled by the Office of the Clerk of Court.

Atty. Aldevera claimed that she exercised due diligence in supervising and monitoring Elegino in the handling of the court accounts and transactions. She also systematized the filing system of deposits and withdrawal slips on a monthly basis. Because of the volume of the transactions, she assigned four persons to assist Elegino.

Atty. Aldevera contended that the *modus operandi* employed by Elegino was such that a cursory and normal monitoring and checking of the transactions would not result in its discovery, but could only be found out in a regular audit. Even the assignment of other personnel did not uncover the irregularities, especially in the Fiduciary Fund.

Atty. Aldevera stated that after the audit on April 6, 2000, she relieved Elegino and assigned Laarni G. Mascardo as the Acting Cash Clerk. Her persistent efforts to protect the interest of the government enabled her to secure an admission from Elegino of her accountability. Through her efforts, cash and checks amounting to P679,928.68 had been recovered. To further protect the interest of the government, Atty. Aldevera claimed that she was able to secure from the Elegino spouses a transfer certificate of title and a special power of attorney to mortgage their property and to use the amount loaned to reconstitute any shortages.

Atty. Aldevera maintained that the irregularities committed by Elegino should be blamed on Elegino alone. She argued that in the absence of any evidence of her own personal wrongdoing, participation or knowledge of Elegino's irregular acts, she should be spared from any administrative sanction for acts which she did not commit. She contended that although she was the head of office who had supervision and control of her cash clerk, "it would defy logic and fair play if she is made to answer for the latter's acts or misdeeds, the same having been

astutely hidden from her and where such misdeed would not, by due diligence, be discovered were it not for the work of the Audit Team."

Finally, Atty. Aldevera stated that Elegino was present on April 18, 2000, but that she was "verifying/locating her records." Her physical absence may have given the auditors the misimpression that she was absent that day.

In February 2001, the same audit team returned to the RTC, Davao City for the purpose of determining the state of the Fiduciary Fund. After the second audit, a Final Report dated August 17, 2001 was submitted to the Court by then Acting Court Administrator Zenaida N. Elepaño.

It was reported that from the period covering June 1989 to April 5, 2000, the collections in the Fiduciary Fund supposed to be deposited in the depository bank totaled P24,777,871.92. However, the balance reflected in the bank account for Fiduciary Fund as of April 5, 2000 was only P15,349,393.17. Hence, there was a shortage of P9,428,478.75. In view of the partial restitution made by respondent Elegino in the amount of P455,505.68, the shortage was lessened to P8,972,923.07.

The second audit found that the Office of the Clerk of Court, RTC, Davao City, under the supervision of Atty. Aldevera as Clerk of Court, committed the following infractions:

- Allowing the encashment of checks (such as salary checks, checks issued by the Supreme Court Savings and Loan Association (SCSLA) representing dividends and Rice Allowance checks) from funds collected as Legal Fees, in violation of Sec. 67 of P.D. 1445;
- Failure to present upon demand the full amount of the Fiduciary Fund which gives rise to the presumption that malversation was done resulting in the shortage of NINE MILLION FOUR HUNDRED TWENTY EIGHT THOUSAND FOUR HUNDRED SEVENTY EIGHT PESOS and 75/100 (P9,428,478.75), defined and penalized under Art. 217 of the Revised Penal Code;
- Failure to present upon demand the full amount of the Sheriff's General Fund which gives rise to the presumption that malversation was done resulting in the shortage of TWO THOUSAND NINE HUNDRED FIFTY NINE PESOS and TWENTY ONE CENTAVOS (P2,959.21), also penalized under Art. 217 of the Revised Penal Code;
- Failure to present upon demand the full amount of the Sheriff's Trust Fund which gives rise to the presumption that malversation was done resulting in the shortage of TWO HUNDRED TWENTY NINE THOUSAND TWO HUNDRED EIGHTY THREE PESOS and EIGHTY FIVE CENTAVOS (P229,283.85) also penalized under Art. 217 of the Revised Penal Code;
- Over-remittance of the Judiciary Development Fund in the amount of SEVENTY ONE THOUSAND FIFTY THREE PESOS and THIRTY FOUR CENTAVOS (P71,053.34), which can only be caused by improper book handling;
- Over-remittance of Clerk of Court General Fund in the amount of ONE HUNDRED THIRTY THREE THOUSAND SIX HUNDRED THREE and NINETY CENTAVOS (P133,603.90) which can only be caused by improper book handling;
- Failure to issue Official Receipts for collections for the Fiduciary Fund in Special Case No. 3762-93 amounting to P2,389,767.67 and Civil Case No. 21,811-93 amounting to P642,200.00 in violation of Sec. 61 and 113, Art. VI, Auditing and Accounting Manual;
- Failure to submit the Monthly Report of Collections, Deposits and Withdrawals for Fiduciary Fund as reflected in the Subsidiary Ledger of the Revenue Division, Accounting Division for the months of June to December 1989; January to December 1990; January to December 1991; May to December 1994; January to December 1995; January to April 1996; November to December 1996; February 1997; April to August 1997;

October to December 1997; January 1998; March to December 1998 and January to December 1999, in violation of Circular No. 32-93; and

- Failure to deposit the daily collections with the authorized depository bank in violation of Administrative Circular No. 31-90 dated 15 October 1990.[6]

Imputed to Atty. Aldevera are the following specific violations:

- Failure to sign the certification in the cash books that the entries therein are true and correct. At the end of each month, she should have signed the certification but the records show that there was not a single certification signed by her in the cash book. Had she done this regularly she could have monitored the everyday transaction in her office. It appears that she left all the work to Ms. Elegino;

- There were checks of judges and court personnel encashed from the collections which are still in their possession, some of which were duly signed and endorsed by Atty. Aldevera for deposit but were never done, causing the checks to become stale, thus depriving the RTC of funds, the interest of which should have accrued to the JDF;

- Atty. Aldevera is aware that Cash Clerk Elegino is engaged in the business of lending money to the court personnel and some other people, but she condoned such activities. She should have not authorized Ms. Elegino to engage in such business considering the nature [of] her work in the court. Atty. Aldevera should have made the necessary measures to safeguard their collections;

- Atty. Aldevera does not regularly submit Monthly Reports of Collections, Deposits and Withdrawals for the Fiduciary Fund which resulted in the large amount of shortages;

- Atty. Aldevera claims that she allowed Ms. Elegino to handle the cash collections because she was already performing this task when she assumed office. This, however, is not reason enough for her to continue the set-up in her office.[7]

In an en banc Resolution dated August 21, 2001, the Court resolved to:

x x x

(b) RE-DOCKET this matter as A.M. No. P-01-1499 (Office of the Court Administrator v. Atty. Marilou Aldevera, Clerk of Court, RTC, Davao City);

(c) DIRECT Ms. Teresita M. Elegino x x x to submit her explanation as required in the resolution dated 24 October 2000;

(d) REFER this matter to ACA Antonio H. Dujua for investigation report and recommendation thereon within sixty (60) days from receipt of the explanation of Ms. Elegino;

(e) place Atty. Aldevera under PREVENTIVE SUSPENSION effective immediately and while this matter is under investigation;

(f) DIRECT the Executive Judge of RTC Davao City to DESIGNATE Branch Clerk of Court Rosemarie Cabaguio as Officer-in-Charge of the Office of the Clerk of Court thereat, vice Atty. Aldevera;

(g) ISSUE a Hold Departure Order against Atty. Aldevera and Ms. Elegino x x x;

(h) DIRECT Atty. Aldevera to RESTITUTE the amount of Eight Million Nine Hundred Seventy Two Thousand and Nine Hundred Twenty Three Pesos and Seven Centavos (P8,972,923.07).

In a Resolution dated October 16, 2001, the Court noted the Manifestation and Urgent Omnibus Motion of respondent Atty. Aldevera for the inclusion of Teresita M. Elegino as respondent; for the expeditious

investigation, report and recommendation on the case; to request the Court to fix the period for Elegino to submit her Explanation; to release salaries, benefits and allowances withheld; to lift Hold Departure Order; and to reconsider and set aside the order to reconstitute the amount of P8,972,923.07.

Assistant Court Administrator Antonio Dujua set the case for hearing in Manila at 1:30 p.m. of November 19 to 20, 2001. Respondent Elegino sent a letter^[8] and a telegram^[9] to Atty. Dujua explaining that her failure to appear at the investigation was due to "financial constraints" since her salary and other benefits have been withheld upon her preventive suspension. In lieu of her appearance, Elegino submitted an affidavit dated November 16, 2001, wherein she stated, thus:

- That I have been the Cash Clerk of the Office of the Clerk of Court, Regional Trial Court, Davao City since 1994;
- That in April 2000, an audit of the Books of Accounts of the Clerk of Court, RTC, Davao City was conducted by the Audit Team headed by (Ms.) Verina Yap, who found that the alleged sum of P8,972,923.07 of the office is unaccounted for;
- That the records, deposit slips, passbook, withdrawal slips, receipts/payment/release vouchers and other documents were made available to, and taken possession of by the audit team but I have not participated in the reconciliation of accounts and thus dispute the accuracy of the alleged shortage findings of the audit team;
- That from a list which I was shown recently, and solely from my recollection, it appears that certain funds are still held by the Office of the Clerk of Court, RTC, Davao City, when in truth and in fact some of the said funds or amounts have already been paid to, released in favor of, withdrawn by the depositing parties or individuals BUT were still included as alleged shortage or unaccountable funds of the Office;
- That as Cash Clerk, I am not the only personnel who issues receipts for funds paid to the office as the signatures in the Official Receipts will show and neither am I the only one handling cash transactions. For the funds duly turned over to me, I have also issued the corresponding acknowledgment receipts for them and were duly remitted to the office or deposited with our depository bank, I thus deny incurring any shortage in the performance of my duty as Cash Clerk of the Office of the Clerk of Court, RTC, Davao City.^[10]

In a Resolution dated December 11, 2001, the Court directed respondents Atty. Aldevera and Elegino to comment on the Final Report dated August 17, 2001 within 15 days from notice, and directed Assistant Court Administrator Antonio H. Dujua to suspend the proceedings of the case until after the Comments have been filed.

In her Comment dated February 5, 2002, Atty. Aldevera answered the issues raised in the Final Report, thus:

- As regards her failure to sign the certification in the Cash Books as to the entries therein, Atty. Aldevera stated that this was the practice of her three predecessors, and she did not know that it was obligatory for her to sign the same. Although she attended seminars and lectures conducted by the Court, she does not remember of any reminder that Clerks of Court had to sign the Cash Books at the end of the month. She asked the Court to take notice of the Cash Books of her predecessors, former Clerks of Court Mapayo, Europa and Velasco, particularly their unsigned reports.
- As regards her failure to deposit the checks of judges and court personnel encashed from the collections, Atty. Aldevera put the blame on Elegino who was supposed to have deposited the checks.
- As regards the charge that she was aware of Elegino's money-lending activities, Atty. Aldevera admitted that even before she assumed office as Clerk of Court or during the tenure of her three predecessors, Elegino, who was then the cashier, was already engaged in money-lending to court personnel. Atty. Aldevera alleged that upon her assumption of office and for the next 11 years thereafter, she had no knowledge of any shortages incurred by Elegino; otherwise, she would have stopped her money-lending activities. When she asked Elegino

where she was getting the money that she was lending, Elegino replied that she was being financed by her mother-in-law. Atty. Aldevera asserted that she had to believe Elegino because she did not have any basis at that time to suspect her of any wrongdoing.

- Atty. Aldevera denied the charge that there was no regular submission of monthly reports of collections, deposits and withdrawals for the fiduciary fund which resulted in large amount of shortages. She claimed that she saw to it that the monthly reports were religiously prepared, and that there were times when she personally typed the monthly reports so that they could be mailed without delay. During the times that she discovered that Elegino failed to mail a monthly report, she personally attended to its mailing. However, Atty. Aldevera disclosed that while retrieving documents for the auditors during the April 2000 audit, she discovered that there were some monthly reports inside the filing cabinets of Elegino which were not yet signed by her (Aldevera). When she confronted Elegino about the shortages and her failure to present the monthly reports for signature, Elegino only cried.

- Atty. Aldevera denied the charge that she failed to diligently monitor Elegino's work as cashier. She stated that when she noticed the increased volume of work in the cash section, she assigned Mascardo, Salazar and Tongco to help Elegino. At that time, she had no knowledge of any wrongdoings or shortages of Elegino.

While admitting that she is primarily liable for any loss, shortage or destruction concerning court funds, revenues, records and properties, Atty. Aldevera submits that this general rule admits of exceptions such as when a subordinate employee of the accountable officer has expressly admitted his/her commission of the anomaly all by himself/herself as shown by Elegino's Undertaking dated April 18, 2000.

Atty. Aldevera's Comment contains a "Further Statement of Facts" alleging, thus:

- (1) There was no periodic audit of her books of accounts since her assumption as Clerk of Court in 1989.
- (2) She made several oral requests from time to time to Ms. Verina Yap, a staff member of the Financial Audit Section, OCA, to conduct an audit of their Cash Books.
- (3) After the discovery of the April 2000 audit, she immediately took the following interim remedial measures:
 - (a) She immediately relieved Elegino as cash clerk;
 - (b) Through her personal persistent effort, Elegino made an immediate partial restitution of P455,505.68;
 - (c) She succeeded in obtaining from Elegino the Transfer Certificate of Title of their house and lot and a special power of attorney to mortgage the same and to apply the proceeds to her shortages;
 - (d) On July 10, 2000, she reiterated her request to the Land Bank, Davao Branch, for a printout of the deposits and withdrawals made by her office;
 - (e) On July 21, 2000, she requested the Philippine National Bank, Davao Branch, for the printouts of their transactions from October 1991 to January 13, 1993;
 - (f) On October 10, 2000, she requested authority from the Court Administrator to execute a Memorandum of Agreement with Land Bank of the Philippines, Davao Branch, for free pick up service of deposits;
 - (g) On March 21, 2001, she received a letter from the City Auditor in answer to her request for copies of disbursement vouchers. The City Auditor stated that the 1989 vouchers had already been disposed, and as for the transactions from 1990 to 1995, she (Atty. Aldevera) was requested to secure the voucher and check numbers from the City Accountant in order to facilitate the retrieval of the vouchers;
 - (h) She succeeded in retrieving several folders of disposed/archived cases from various branches of the RTC, Davao City, to verify whether cash bonds posted by litigants were still "unwithdrawn" as indicated in the cash

books and she discovered that many of them had already been withdrawn.

On March 5, 2002, the Court resolved to refer the Comment of Atty. Aldevera to the OCA for evaluation, report and recommendation.

In a Resolution dated May 7, 2002, the Court noted the Memorandum dated March 2002 of then Deputy Court Administrator Christopher O. Lock in compliance with the resolution of March 5, 2002, and required respondents Atty. Aldevera and Elegino to manifest within 10 days from notice if they were willing to submit the case based on the pleadings on record.

On May 27, 2002, Atty. Aldevera filed a Manifestation stating that she was willing to submit the case based on the pleadings on the record. However, on June 21, 2002, the Court received from Atty. Aldevera a Manifestation and Motion requesting for a full-blown investigation of the case.

On August 20, 2002, the Court resolved to refer the case to one of the consultants in the OCA for investigation, report and recommendation.

Retired Justice Romulo S. Quimbo, a consultant in the OCA, was designated to investigate the case. He set the case for hearing at the OCA, Manila on September 25 to 27, 2002. In the hearing scheduled on September 25, 2002, only respondent Atty. Aldevera appeared with her counsel. Respondent Elegino did not appear and it was not certain whether she had been served with notice since the return card of the registered mail was never received. Thus, Justice Quimbo reset the hearing to December 9 to 11, 2002 at the Regional Trial Court in Davao City to accommodate respondent Elegino who could not appear in Manila due to financial constraints.

On October 24, 2002, Justice Quimbo received from respondent Elegino a Manifestation and Submission of Document(s) as Respondent's Exhibits[11] dated October 8, 2002. Respondent Elegino manifested, thus:

- (1) She did not receive the notice for the hearing in September, 2002 on time;
- (2) On November 16, 2001, she submitted an affidavit[12] in lieu of her appearance before Assistant Court Administrator Antonio Dujua;
- (3) Cash collection and issuance of receipts are not solely undertaken by her and all the funds turned over to her and those directly collected by her have been deposited in the bank;
- (4) Under this backdrop and confident that she may only be required to account for the funds actually collected and held by her, and upon the behest and explanation of Atty. Aldevera that it was part of the audit process, she (Elegino) signed the Undertaking prepared by Atty. Aldevera.

Further, respondent Elegino annexed to the pleading a photocopy of her letter[13] dated October 16, 2001 addressed to Atty. Aldevera in response to the latter's letters demanding restitution and payment of the reported missing funds. In the letter, respondent Elegino stated that she was sorry for not complying with the letters of Atty. Aldevera since she disputed the accuracy of the audit and that she was not solely responsible for handling collections. Hence, she could not be solely responsible for any shortages. She also stated therein that she signed the Undertaking upon the behest of Atty. Aldevera as her superior since she was made to understand that it was a usual part of an audit. She added that she agreed to have her residence mortgaged by Atty. Aldevera because she only wanted to help in resolving the matter, but not as an admission of liabilities.

In the hearing conducted on December 9 to 11, 2002, only Atty. Aldevera appeared with her counsel. Respondent Elegino did not appear. However, the process server informed the Investigating/Hearing Officer, Justice Quimbo, that he delivered the notice for respondent Elegino to the latter's niece.

Atty. James Navarrete, appearing for the Office of the Court Administrator, offered the oral testimony of Audit Team Leader Verina Yap. According to the Report of Justice Quimbo, the testimony of Verina Yap established the following facts:

- Respondent Atty. Marilou Dureza-Aldevera was appointed Clerk of Court and Ex-Oficio Sheriff, RTC, Davao City on August 1, 1989 (Exhibit C), but assumed office only on August 8, 1989 (Exhibit D) although she had been discharging the functions as such in an acting capacity since April 25, 1989. Respondent Ms. Teresita Elegino, on the other hand, was appointed Cash Clerk III on May 17, 1989 (Exhibit E) and assumed her duties as such on May 23, 1989 (Exhibit F). In her application (Exhibit G), Ms. Elegino stated that since she was promoted to the position of Staff Assistant III in 1983, she had been "concurrently holding the position and performing the job of a Cashier and other matters related to the functions of the Clerk of Court as accountable officer." Ms. Yap further declared that according to Civil Service Form 1 (Position Description) (Exhibit H) the Clerk of Court has the following duties:

"Under the general supervision of the Supreme Court through the Executive Judge/Presiding Judge, he is the administrative officer of the court and as such, exercises general supervision and control over all divisions, sections, and units in the Office of the Clerk of Court; coordinates their activities for effectiveness and efficiency; manages the court records and physical facilities of the Court; provides information services to the public and other government agencies; assists the trial court in the latter's relationship with other public and private agencies including bar associations; takes charge of court writs and processes; prepares ceases for raffle; keeps book; accountable for money and property deposits of the Court; studies and recommends to the judge ways and means to improve both adjudicative and administrative support; performs special functions as ex-officio provincial/city sheriff; implements all orders and policies of the Court in connection with the speedy administration of justice; and does related work." (Emphasis ours)

- Ms. Yap brought to the hearing photocopies of seven pages of the subsidiary ledger kept by the Supreme Court which were duly certified by the custodian of the same. The pages were marked as Exhibits "W," "W-1" to "W-6," inclusive. An examination of the same will reveal that respondent Atty. Aldevera did not religiously submit a report every month as required by the Supreme Court under Circular No. 32-93. In Exhibit "W-2," it appears that there were no reports submitted for the months of June, July and August, 1992. In Exhibit "W-3," it appears that there was no report for the month of September 1993. For 1996, there were reports only for the months of April, May, June, July, August and October and for the year 1997, the only reports are for January, March and September.

- Ms. Yap also identified the "Summary of Reconciliation" (Exhibit Y), to which was attached 13 pages of the annual reconciliation of the accounts for the years 1989 to 2000, inclusive. As it appears in Exhibit "Y," the total collections for the FF for the said years amounted to P73,644,153.33 (Exhibit Y-2) while the withdrawals amounted to P48,957,443.85 (Exhibit Y-1) thereby leaving a balance of P24,686,709.48 (Exhibit Y-3). However, in making the final report, the audit team deducted the amounts of P20,100.30 as unaccounted withdrawal and the amount of P35,531.07 as over withdrawal thus the total withdrawals should only be P48,901,812.48 thus leaving a balance of P24,777,871.92 [this should be P24,742,340.85]. This latter amount should have been intact in the custody of the respondents. But the remaining balance of the FF account with the Land Bank Davao (Recto) City Branch was only P15,496,282.87 as shown in the "certification" (Exhibit CC) issued by the said bank. This, according to Ms. Yap, indicated a shortage of P9,428,478.75 [this should be P9,246,057.98] (Exhibit FF, Memorandum of Acting Court Administrator Zenaida N. Elepaño). The aforementioned final report concedes that a partial restitution in the amount of P455,505.68 was made thus leaving a net shortage of P8,972,923.07 [this should be P8,790,552.30]

- Ms. Yap also identified a folder titled "Statement of Unwithdrawn Fiduciary Fund" prepared by the respondents

(Exhibit DD) which states that the total unwithdrawn FF is P26,388,884.46 (Exhibit DD-1). The same "Statement of Unwithdrawn FF" as prepared by the audit team was identified and marked as Exhibit "EE." In the latter, the total unwithdrawn funds amounted to P24,686,709.48 (Exhibit EE-1).

- Ms. Yap testified that there are seven (7) different funds handled by the Clerk of Court. They are (1) Clerk of Court General Fund (CoCGF); (2) Sheriff's General Fund (SGF); (3) Judiciary Development Fund (JDF); (4) Fiduciary Fund (FF); (5) Sheriff's Trust Fund (STF); (6) Victim's Compensation Fund (VCF); (7) Legal Research Fund (LRF). Of these funds, the Supreme Court is more concerned with the first five mentioned above. As to the sources of each, the CoCGF, the JDF and the SGF are the fees provided in Rule 141 of the Rules of Court and other sources that may accrue to these accounts as provided in En Banc Resolution No. 99-8-01-SC. The FF comes from cash bonds, rental deposits and money consigned to the court while the STF comes from deposits for redemption, deposits for publication and proceeds from auction sales. Collections pertaining to the CoCGF and the SGF are remitted to the National Treasurer. Collections pertaining to the JDF are remitted to the Supreme Court. The FF and the SGF remain in the place where the court sits. These funds have to be returned to those who deposited them once the purpose for which they were deposited no longer exists. The fund may be withdrawn only upon the joint signatures of the Executive Judge and the Clerk of Court.

- Official Receipts to be used for collections accruing to the first five funds mentioned above, are supplied by the Supreme Court. For the collection of the VCF, official receipts must be secured from the Department of Justice. Receipts for the Legal Research Fund can be had from the UP Law Center and for cadastral fees, the official receipts can be secured from the Land Registration Administration. The Court requires that receipts for collections must be separate for each fund. Thus a booklet of OR's may be used only for CoCGF; another booklet for the FF and so forth. This is provided in OCA Circular No. 22-94. These collections must be recorded in separate cashbooks. The reason for this requirement, according to Ms. Yap is because not all collections pertain to the Court. The CoCGF is remitted to the National Treasurer as is the SGF while the JDF is remitted to the Supreme Court. The Sheriff's Trust Fund and the Fiduciary Fund are kept with the depository bank and may be withdrawn only by the Executive Judge and the Clerk of Court together. The reason for this is because these funds are only held in trust for certain depositors who may claim them later.

- Ms. Yap further declared that respondents failed to comply with Circular No. 50-95 because they failed to deposit all collections pertaining to the FF within twenty four (24) hours. Respondents also failed to comply with Section 111 of the "Government Accounting and Auditing Manual" which required that collections be deposited with the depository bank daily if the distance to the bank is less than 15 kilometers or the travel time is less than 1 day, whenever the collections exceed P500.00.

- Ms. Yap stated that an examination of the FF cashbook submitted by respondent Atty. Aldevera revealed that she did not certify as true and correct, at the end of every month, the entries therein. She also found out that respondents did not deposit all their collections for the FF leaving always a balance exceeding P500.00.

- On February 4, 2001, the audit team was directed to return to Davao to conduct spot audits of the Municipal Trial Court in Cities x x x and the Regional Trial Court of Davao City in order to finalize the audit of the latter. From the documents given to them and their reconciliation of the FF, the team found out that there was a shortage of Nine Million Four Hundred Twenty Eight Thousand Four Hundred Seventy Eight Pesos and Seventy-Five Centavos (P9,428,478.75) [this should be Nine Million Two Hundred Forty-Six Thousand Fifty-Seven Pesos and Ninety-Eight Centavos (P9,246,057.98)].[14]

On cross-examination, Ms. Yap conceded that in 1997, Atty. Aldevera had verbally requested Mrs. Antonina Soria, then the Chief of the Fiscal Monitoring Division, for an audit of her accounts. However, due to lack of

personnel, no audit could be done. An audit of her accounts was only conducted on April 5, 2000 upon the order of then Court Administrator Alfredo Benipayo.[15]

Finally, Ms. Yap declared that she gave Atty. Aldevera a year to find proof showing that there were withdrawn fiduciary funds which were not included in the summary because there were no documents to support them. Unfortunately, Atty. Aldevera was unable to further reduce the amount of the unwithdrawn fiduciary funds. Although she had been suspended from office, Atty. Aldevera could have asked the Court's permission to go over the records of her office to see if there were withdrawn funds which were not carried in the audit.[16]

After the testimony of Ms. Yap, complainant made a formal offer of evidence in writing.

Thereafter, Atty. Aldevera testified in her defense. On direct examination, she ratified the Explanation (Exhibit GG) and Comment (Exhibit HH) she had submitted earlier.

The Report of Investigating Officer, Justice Quimbo, summarized the testimony of Atty. Aldevera, thus:

Respondent Aldevera declared that she had occupied the position of Clerk of Court, RTC, Davao City, since May 1989 until 1 October [2001] when she was placed under preventive suspension. She admitted that she knew Teresita Elegino who was then the cash clerk in said office; that even before respondent Clerk of Court assumed office, Ms. Elegino was already performing the functions of a cashier since 1983 or earlier under Atty. Ray Uson Velasco, then Clerk of Court. She was handling the cash transactions of the office, depositing the collections with the depository bank as well as keeping the documents pertaining to these transactions. She had been performing these functions during the tenure of Atty. Aldevera's predecessors.

Reiterating what she had earlier stated in her two pleadings (Exhibits GG and HH), respondent Aldevera declared that she had initiated reforms in her office by creating separate files for deposit and withdrawal slips in the different funds handled by her office. Immediately after the preliminary findings of the auditors regarding the existence of shortages, she relieved Ms. Elegino and assigned Ms. Laarni Mercado to act as cashier. x x x She denied the statement of Ms. Yap that the cash items found by the team during the cash count on 5 April 2000 were returned to her. She denied any physical return of these items to her but declared that it was Ms. Elegino who returned them to the vault.

She averred that she had reluctantly signed the cash count sheet (Exhibit I). She reasoned that since she had nothing to do with the amounts found in the vault, Ms. Elegino should acknowledge the same, but respondent alleged that she was informed by Ms. Yap that because she was the accountable officer, she had to acknowledge the said cash items.

As regards her failure to certify to the correctness of the cashbook entries, respondent Aldevera reiterated her explanation that she did not feel compelled to do so because her predecessors, Judge Virginia Europa, Judge Hilario Mapayo and Ray Uson Velasco also did not certify said entries during their time. She had just followed their example. She presented sixty-nine (69) entries of cashbooks (Exhibit 2) made during the time of her predecessors which the latter failed to certify. She took exception to the testimony of Ms. Yap that not all the collections were being deposited everyday because the cashbook showed big balances after the deposits. Atty. Aldevera declared that her instruction to Ms. Elegino was to deposit the collections everyday and she signed deposit slips prepared by said cash clerk. She admitted that she relied on Ms. Elegino and did not bother to find out whether the deposits were actually made because she "really did not have any other time due to time constraints to go over the official receipts and verify the collections of Elegino." She stated, however, that once in a while she checked on the deposits made by the cash clerk but it was humanly impossible to go over the receipts to verify the collections for the day specially that there were seven booklets being used for the different funds.

She further averred that it was her intention to have all transactions entered in the cashbooks and that is the reason she assigned other employees to give support to Ms. Elegino. She denied knowledge of the several

collections which were not supported by official receipts. She claimed that her standing instruction to Ms. Elegino was always to issue an official receipt for every amount she received. She claimed having learned of the instances mentioned by Ms. Yap where no OR's were issued for such big amounts as P1,000,000.00 and P1,474,000.00 deposited in Special Proceeding No. 3762-93 nor the deposit of P642,200.00 in Civil Case No. 21,[8]11-93. She denied having failed to submit a monthly report required by the Court but admitted that her salary was withheld for said failure.

Respondent Atty. Aldevera justified her encashment of checks issued by the Court to employees saying that she had asked Ms. Soria, an official of the Court Administrator's Office, and the latter had told her that she may do so provided the checks are not postdated.

As regards the shortage mentioned in the final report (Exhibit FF) of the auditors[,] [s]he maintained that she did not participate in the reconciliation of the items, hence she is not bound by the audit report. She argued that had she been given more time and access to the records in her office after she was preventively suspended, she could have reduced further the shortage as found by the auditors.

Finally, respondent Aldevera reiterated the steps she had taken after the audit to secure from the offices proof of withdrawals, etc.[17]

On cross-examination, Atty. Aldevera admitted that she knew that Elegino was engaged in money-lending even before she took over as Clerk of Court. She did not believe that there was any conflict in the duties of the cash clerk and her business. Atty. Aldevera saw it as Elegino's way of earning additional income for her family. It never occurred to her to relieve Ms. Elegino as cash clerk for her money-lending activity because Ms. Elegino told her that her business was being financed by her mother-in-law and Elegino was also making a "lot of money from her farm in Malita." [18]

Moreover, she admitted that she was aware that salary checks of court employees were being encashed by Elegino. Although she could see from the Fiduciary Fund cash book (Exhibit M) that not all the collections were being deposited by Elegino, she, however, declared that she did not see any irregularity in keeping a substantial amount of cash in the office because the amount was entered in the cash book, which meant that the money was there and that was the procedure being practiced. Atty. Aldevera admitted that she knew the rule that all monies in excess of P500 should be deposited. When she confronted Elegino regarding the matter, Elegino told her that the balance could not be deposited at the end of the month, but would be carried to the following month.[19]

She immediately relieved Elegino of her duties as cash clerk on April 6, 2000 upon her discovery that Elegino was keeping a big amount of cash in the vault which should not have been the case, and upon seeing the many checks kept in the vault contrary to her instructions to deposit them.[20]

Confronted with her statement that she made innovations such as creating folders for the deposit and withdrawal slips for every fund and asked why she did not, from 1989 up to 2000, bother to make sure that Elegino was following her instructions, Atty. Aldevera answered that she saw that the folders were "intact and there were a lot of documents placed in there," so she presumed that her instructions were being followed. However, she discovered that there was only substantial compliance by Elegino in keeping all documents properly, but she did not bother to go over each and every folder supposed to contain those documents.[21]

On re-direct examination, Atty. Aldevera declared that the summary (Exhibit M-1) pertained to June 1989 when she was only acting as Clerk of Court barely two months. As far as she could remember, during the early years of her tenure, local auditors examined her accounts and if they saw any irregularity in the failure of Elegino to deposit all the collections everyday, these auditors would have called her attention. Moreover, it was the procedure being followed by her predecessors.[22]

After her testimony, Atty. Aldevera made a formal offer of her evidence, which was admitted by the Hearing Officer.

On rebuttal, Ms. Verina Yap declared that the audit team had considered the OR's in Exhibit "10" in favor of respondents. She insisted that the discovered "over remittance" in the General Fund may have come from forfeited bonds which were transferred without the corresponding OR's. She stated that not all transfers were included in Exhibit "10." [23]

On sur-rebuttal, Atty. Aldevera declared that all forfeited bonds were transferred to the General Fund and later to the JDF through OR's correspondingly issued and that she saw to it that this was done. She insisted that there never was a transfer made without the corresponding official receipt. [24]

Thereafter, the Hearing Officer, Justice Quimbo, gave both parties 30 days to file their respective memorandum.

In his Report, Justice Quimbo averred that the records presented by the complainant, which were taken from respondents' files, clearly proved the shortages in the Sheriff's General Fund and the Sheriff's Trust Fund in the amount of P2,959.21 and P229,283.85, respectively (which shortages were restituted by respondent Elegino), and the shortage of P8,972,923.07 [this should be P8,790,552.30], in the Fiduciary Fund.

Justice Quimbo stated that there was no direct evidence linking Atty. Aldevera to any misappropriation of public funds. In fact, Elegino executed an Undertaking wherein she declared that she assumes full responsibility for any shortages which the audit may discover. The document, however, was never identified nor offered in evidence for respondent Atty. Aldevera. Moreover, in a subsequent Manifestation, Elegino repudiated the Undertaking and claimed that she signed the document because Atty. Aldevera told her that it was a normal audit procedure. She also denied that she had given the title to her property to Atty. Aldevera as an admission of any liability.

According to Justice Quimbo, the testimony of Atty. Aldevera merely repeated what she had stated in her Explanation and in her Comment and dwelt on the reforms she instituted and the efforts she exerted after the discovery of the shortages, which cannot exonerate her. She never questioned the accuracy of the findings in the financial audit, which is an admission of the cash shortages in her office. She, however, blamed co-respondent Elegino for the shortages.

Justice Quimbo did not give credence to Atty. Aldevera's assertion that she could not be faulted for the shortages. He cited the evaluation of then Deputy Court Administrator Christopher Lock in his Memorandum dated March 19, 2002, thus:

The principal argument of Atty. Aldevera is that long before she was appointed Clerk of Court of the Regional Trial Court of Davao City, Ms. Elegino has been the cash clerk of the said office. She claims that there was no reason for her to believe that there was something amiss in the handling of the court collections. This is not entirely true.

On page 3 of the Comment, Atty. Aldevera stated that she discovered incomplete entries in the cash books of Ms. Elegino, but her solution to this problem was to designate additional personnel to assist Ms. Elegino. Atty. Aldevera should have assumed greater responsibility in the financial transactions of her office, by handling personally the transactions or by at least replacing Ms. Elegino. Atty. Aldevera's incompetence is exacerbated by the fact that she knew that Ms. Elegino was engaged in money-lending activities (Comment, pp. 10-11). The mere fact that Ms. Elegino was engaged in this business should have alerted Atty. Aldevera to take the necessary precaution of replacing her or to be meticulous in inspecting the cash books, official receipts, deposit slips and the bank books of her office. If only Atty. Aldevera inspected these books and documents she could have discovered that the monthly deposits of her Office were way below the monthly collections (see Partial Report dated July 18, 2000, pp. 6-8). This is the reason why her claim that she verified the deposits/posting and

cash positions and monitored the handling of cash of Ms. Elegino (Comment, p. 7) cannot be given credence.

The other defenses raised by Atty. Aldevera, far from exonerating her, merely underscores her incompetence. On the charge that she failed to certify the entries in the cash books, she contends that from the time she assumed the position of Clerk of Court nobody called her attention that she had to certify the said entries (Comment, p. 2). It seems that Atty. Aldevera is not even aware of her duties as Clerk of Court, and worse, she lacks the dedication to know her job.

Another indicia of her incompetence is her answer to the charge of failure to deposit checks of Judges and court personnel encashed from their office collections. Just like before, she claims that she relied on Ms. Elegino's verbal assurances that the deposit slips truly reflected the collections of the day. It clearly appears that Atty. Aldevera did not even know that the mere encashment of private checks using the collections of the court is in itself already a violation of Sec. 105 of the Government Accounting and Auditing Manual (see also Report on the Financial Audit in RTC, General Santos City and the RTC and MTC of Polomok, South Cotabato; A.M. No. 96-1-25-RTC; April 18, 1997). Added to this, is the fact that when the audit team examined the contents of the vault, it contained stale checks of court employees duly endorsed by Atty. Aldevera (see Partial Report, p. 11).

Atty. Aldevera is likewise offering the excuse that her volume of work made it impossible for her to monitor the work of Ms. Elegino. This deserves scant consideration since the task of monitoring the cash flow of her office is not as difficult as she wants to make it appear. The only things she has to do each day is to compute the total collections based on the cash book or the official receipts and compare this with the cash on hand. If these tally, then she should prepare the deposit slip and if it is no longer possible to deposit the money in the bank, to keep the same in the vault. On the following day, she should see to it that the money is deposited and that the deposit slip is properly validated by the bank. In sum, the task of monitoring the cash flow of the office involves simple mathematical computations. That she did not follow this procedure is evidenced by the fact that on April 5, 2000 the audit team discovered that the cash on hand was P829,282.02 representing collections for the past several months (Partial Report, pp. 1-3). Besides the accumulation of the said amount is a violation of Sec. 111 of the Government Accounting and Auditing Manual, which requires that a collection of P500 or more should be deposited daily.

Atty. Aldevera likewise passes the blame on Ms. Elegino for her failure to submit to this Court their monthly reports claiming that Ms. Elegino failed to mail the same. If this is true, she should have seen to it that those reports were, although late, immediately mailed to this Court. Here we can see again that Atty. Aldevera had personal knowledge of the shortcomings of Ms. Elegino and yet her only reaction was merely warn the latter. Atty. Aldevera even added that during the audit, she found several unsigned monthly reports in the filing cabinet of Ms. Elegino. This only goes to show that there were months that Atty. Aldevera did not sign any report and yet she did not even notice it nor did she call Ms. Elegino's attention.

The last portion of her Comment deserves scant consideration as these were measures taken by Atty. Aldevera after the audit. For obvious reasons these can in no way exonerate her.

In sum, Atty. Aldevera failed to present a satisfactory explanation regarding the cash shortages in her office.

According to Justice Quimbo, the evidence presented during the hearings justified the conclusions of then Deputy Court Administrator Christopher Lock who evaluated the pleadings of respondents.

Justice Quimbo stated that unlike Atty. Aldevera, Elegino contested the accuracy of the findings of the audit in her Affidavit, but she did not offer any evidence to prove that it was not accurate. Hence, in the absence of countervailing evidence, the findings of the auditors have high probative value. Justice Quimbo held respondents Atty. Aldevera and Elegino liable for the "massive defalcation of funds" of the RTC, Davao City, and recommended their dismissal from service.

The Court agrees with Justice Quimbo that Atty. Aldevera, as the Clerk of Court of RTC, Davao City, is accountable for the shortage of P8,972,923.07 [this should be P8,790,552.30] in the Fiduciary Fund because she is the designated custodian of the Court's funds. Section B, Chapter 1 of the 1991 Manual for Clerks of Court and the 2002 Revised Manual for Clerks of Court state:

The Clerk of Court has general administrative supervision over all the personnel of the Court. As regards the Court's funds and revenues, records, properties and premises, said officer is the custodian. Thus, the Clerk of Court is generally also the treasurer, accountant, guard and physical plant manger thereof. (Emphasis supplied.)

In addition, the duties of a Clerk of Court as Cashier and Disbursement Officer contained in the 1991 Manual for Clerks of Court[25] are as follows:

- Collects and receives, by himself or thru a duly appointed cashier, all monies in payment of all legal fees.
- Receives, by himself or thru a duly appointed cashier, deposits, fines and dues.
- Controls the disbursements of funds appropriated by the provincial and city governments as aid to the Court.
- Disburses funds quarterly allocated by the Supreme Court to the branches upon the direction and approval of the Executive Judge.

From the above duties, it is clear that the Clerk of Court is primarily accountable for all funds that are collected for the court whether personally received by him or by a duly appointed cashier who is under his supervision and control.

As the custodian of the Court's funds, revenues, records, properties and premises, the Clerk of Court is liable for any loss, shortage, destruction or impairment of said funds and properties.[26] Hence, Atty. Aldevera cannot pass the blame for the shortages incurred to Elegino who performed the task of handling, depositing, and recording of cash and check deposits. As Clerk of Court, Atty. Aldevera has general supervision over all personnel of her court. It was incumbent upon her to ensure that Ms. Elegino was performing her duties and responsibilities in accordance with the circulars on deposits and collections[27] so that all court funds are properly accounted for.

The 1991 Manual for Clerks of Court[28] and the 2002 Revised Manual for Clerks of Court[29] both provide that "[a] Clerk of Court found short of money accountabilities may be dismissed from the service."

The penalty of dismissal for cash shortage incurred by the Office of the Clerk of Court was imposed in *Office of the Court Administrator v. Clerk of Court Ermelina C. Bernardino, et al.*[30] The Court therein ruled:

Respondent Banting, even assuming arguendo that he did not take part in any irregularity, was grossly negligent when he did not properly oversee the collection, reporting and remitting of court funds. Consequently, his failure to remit his collections amounting to P1,242,117.38 constitutes gross neglect of duty, dishonesty and grave misconduct. By his failure to properly remit the cash collections that are public funds, he transgressed the trust reposed in him as cashier and disbursement officer of the Court. This Court imposes the supreme penalty of dismissal.

x x x

Particularly referring to Clerks of Court, and as the custodians of the court's funds, revenues, records, properties and premises, they perform very delicate functions and are liable for any loss, shortage, destruction or impairment thereof. For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty. This Court had never and will never tolerate nor condone any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the justice system.[31]

Similarly, the failure of Atty. Aldevera to account for the shortage of P8,790,552.30 in the Fiduciary Fund constitutes gross neglect of duty, dishonesty and grave misconduct. Each offense is punished with dismissal even for the first violation of the offense under Section 22 (a) (b) and (c) of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292[32] and Other Pertinent Civil Service Laws.

Further, the shortage in the Fiduciary Fund incurred by Atty. Aldevera can also be attributed to respondent Elegino as Cash Clerk III of the Office of the Clerk of Court, RTC, Davao City.[33]

The Court notes that despite proper notice, respondent Elegino failed to file a Comment on the Final Report and to appear during the hearing of this case, which was held in Davao City to accommodate her. She merely submitted an Affidavit and a Manifestation and Submission of Document(s) as Respondent's Exhibits. However, even if she failed to refute the charges against her during the hearing, she can still be held administratively liable. Where the opportunity to be heard has been accorded, there is no denial of due process.[34] If it is not availed of, it is deemed waived or forfeited without violating the constitutional guarantee.[35]

The testimonies of Atty. Aldevera and Ms. Verina Yap, as well as the records show that respondent Elegino failed to properly carry out her duties as cash clerk which resulted in the shortage of P8,790,552.30 in the Fiduciary Fund. Hence, respondent Elegino is found guilty of gross neglect of duty, dishonesty and grave misconduct.

Further, the Investigating Officer found and the records showed that Atty. Aldevera violated provisions of the Government Accounting and Auditing Manual and Court Circulars pertaining to collections and deposits and the issuance of official receipts.

Section 111 of the Government Auditing Rules and Regulations requires collecting officers to deposit their collections daily when the distance to the depository bank is less than 15 kilometers or the travel time is less than one day daily whenever the accumulated collections amount to P500 or more. Atty. Aldevera admitted that she was aware of this rule. Nevertheless, she and respondent Elegino violated the rule considering that in the audit of April 5, 2000, the auditors found the amount of P373,337.16 in currency and P455,944.86 in other cash items in the vault of the Office of the Clerk of Court.

Moreover, Circular No. 50-95[36] requires that "[a]ll 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." The records reveal that this was not done. Audit Team Leader Verina F. Yap testified that respondents failed to deposit collections pertaining to the Fiduciary Fund within 24 hours. Atty. Aldevera herself admitted that she discovered deposit slips already signed by her, but which were not delivered to the depository bank by Elegino. The Investigating Officer opined that this happened because Atty. Aldevera was remiss in monitoring the activities of Elegino.

A.M. No. 95-4-143-RTC (Re: Report on the Judicial and Financial audit of RTC-Br. 4, Panabolo, Davao Del Norte),[37] promulgated on March 13, 1998, held:

The Clerk of Court may not keep funds in his custody as the same should be deposited immediately upon receipt thereof with the City, Municipal or Provincial Treasurer where his court is located should there be no branch of the LBP in the locality. Thus, the failure of Atty. Genete to remit the funds to the Municipal Treasurer of Panabo, Davao, constitutes gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service.

Further, Circular No. 32-93,[38] requires all Clerks of Court/Accountable Officers to submit to this Court a monthly report of collections for all funds not later than the 10th day of each succeeding month. For the RTC Fiduciary Fund, the monthly report should include the "[o]riginal copy of report of deposits and withdrawals and

validated duplicate copy of official receipts and deposit slips; and in cases of withdrawals, a copy of the order of the Court duly authenticated with Court's seal and a copy of the acknowledgement receipt."

According to the records of the Accounting Division of the Office of the Court Administrator, Atty. Aldevera did not send the required reports of deposits and withdrawals for the months of June to December, 1989; January to December, 1990; January to December 1991; May to December, 1994; January to December, 1995; January to April, 1996; November to December, 1996; February, 1997; April to August, 1997; October to December, 1977; January 1998; March to December, 1998; and January to December 1999. Such failure was confirmed by Atty. Aldevera in her Comment wherein she disclosed that while retrieving documents for the auditors during the April 2000 audit, she discovered that there were some monthly reports inside the filing cabinets of Elegino which were not yet signed by her, showing that she was remiss in complying with Circular No. 32-93.

The record also reveals that the Office of the Clerk of Court failed to issue official receipts for collections for the Fiduciary Fund in Special Case No. 3762-93 amounting to P2,474,000 and in Civil Case No. 21,811-93 amounting to P642,200.00 in violation of Sec. 61 and 113, Article VI of the Auditing and Accounting Manual.

The safeguarding of funds and collections, submission to this Court of a monthly report of collections for all funds, the proper issuance of official receipts for collections are essential to an orderly administration of justice. Hence, respondents' failure to comply with the aforementioned Court Circulars and other relevant rules designed to promote full accountability for public funds constitutes gross neglect of duty and grave misconduct.

Some recent development in this case are the following:

On August 14, 2006, the Court adopted a Resolution stating:

"The Court Resolved to NOTE the Memorandum dated June 15, 2006 filed by the Office of the Court Administrator relative to the letter dated May 2, 2006 of Atty. Nenita C. Chua, representative of Pryce Corporation, requesting for the release of the amount of P3,353,357.84 consigned with the RTC, Davao City, which amount was among those collected by Atty. Marilou Dureza-Aldevera, Clerk of Court, RTC, Davao City, who was placed under suspension as a result of the financial audit conducted on her books of account."

Subsequently, on August 23, 2006, respondent Atty. Aldevera filed a Manifestation, thus:

x x x

- - She was in receipt of AUGUST 14, 2006 of the Resolution of the Court En Banc dated June 27, 2006, which is quoted hereunder:

"The Court Resolved to NOTE the Memorandum dated June 15, 2006 filed by the Office of the Court Administrator relative to the letter dated May 2, 2006 of Atty. Nenita C. Chua, representative of Pryce Corporation, requesting for the release of the amount of P3,353,357.84 consigned with the RTC, Davao City, which amount was among those collected by Atty. Marilou Dureza-Aldevera, Clerk of Court, RTC, Davao City, who was placed under suspension as a result of the financial audit conducted on her books of account."

- - The consignment of the amount of P3,353,357.84 was made by Pryce Corporation, through its lawyer, the late Atty. Manuel Jesus Escudero on January 18, 1995 under Manager's BPI Manager's CHECK No. 461779 dated January 9, 1995;

- - Official Receipt No. 4018399 dated January 18, 1995 was accordingly issued in their favor. Certified photocopy of said Official Receipt is hereto attached as ANNEX "1";

- - Said BPI Manager's CHECK NO. 461779 dated January 9, 1995 was deposited on January 19, 1995 with the fiduciary development fund account No. 0161-1521-485 of the Regional Trial Court, Davao City. Certified

photocopy of said Deposit Slip duly validated by the bank is hereto attached as ANNEX "2";

- - In relation to the letter of Pryce Corporation through their counsel, Atty. Nenita C. Chua dated March 2, 2006 for the withdrawal of the said amount, the Clerk of Court V, Officer-in-Charge of the Office of the Clerk of Court, RTC, Davao City, Atty. Edipolo P. Sarabia, Jr., sent a letter dated April 24, 2006 to hon. Renato A. Fuentes, Executive Judge, rtc, Davao City, informing the latter that the said amount of P3,353,357.84 is still intact and remain unwithdrawn from the depository bank, Land Bank of the Philippines, but required Pryce Corporation to present and surrender the original copy of the Official Receipt, as an accounting procedure and for audit purposes. Certified photocopy of the letter is hereto attached ad ANNEX "3";

- - Per information from the Office of the Clerk of Court, RTC, Davao City, Pryce Corporation however, failed to present the requirements, hence, was not able to withdraw said deposit.

On September 5, 2006, the Court NOTED the Manifestation.

WHEREFORE, the Court rules as follows:

- Respondents Clerk of Court Marilou Dureza-Aldevera and Cash Clerk Teresita M. Elegino, RTC, Davao City are hereby found GUILTY of gross neglect of duty, dishonesty and grave misconduct. Atty. Marilou Dureza-Aldevera and Ms. Teresita M. Elegino are hereby DISMISSED from the service with forfeiture of all retirement benefits, excluding accrued leave credits, with prejudice to re-employment in any government office, including government-owned and controlled corporations.

- Atty. Marilou Dureza-Aldevera and Teresita M. Elegino are ordered to jointly and severally RESTITUTE, within thirty (30) days from notice, the amount of EIGHT MILLION SEVEN HUNDRED NINETY THOUSAND FIVE HUNDRED FIFTY-TWO PESOS and THIRTY CENTAVOS (P8,790,552.30) representing their shortage in the Fiduciary Fund.

- The Employees Leave Division, Office of the Administrative Services, OCA is DIRECTED to compute the balance of the earned leave credits of Atty. Marilou Dureza-Aldevera and Teresita M. Elegino and forward the same to the Finance Division, Fiscal Management Office, OCA, which shall compute its monetary value. The amount, as well as other benefits they may be entitled to, and the withheld salaries and allowances of respondents shall be applied as part of the restitution of the shortage.

- Finally, OCA is further DIRECTED to study the possibility of the filing of criminal complaints against respondents and other persons in light of the facts of this case.

SO ORDERED.

Panganiban, C. J., Puno, Quisumbing, Ynares-Santiago, Sandoval Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Velasco, Jr., JJ., no part to prior action in OCA.

[1] Rollo, p. 182.

[2] Id. at 184.

[3] Id. at 185-186.

[4] Id. at 189.

[5] Id. at 159.

- [6] Id. at 438-439.
- [7] Id. at 439-440.
- [8] Id. at 346.
- [9] Id. at 354.
- [10] Id. at 349.
- [11] Id. at 387.
- [12] Id. at 349.
- [13] Id. at 390.
- [14] Report of Justice Romulo S. Quimbo (Ret.), pp. 18-24.
- [15] Id. at 24-25.
- [16] Id. at 26.
- [17] Id. at 27-30.
- [18] Id. at 30.
- [19] Id. at 32.
- [20] Id. at 31.
- [21] Ibid.
- [22] Id at 32-33.
- [23] Id. at 34.
- [24] Ibid.
- [25] The Manual applicable before the preventive suspension of Atty. Aldevera.
- [26] Office of the Court Administrator v. Bawalan, A.M. No. P-93-945, March 24, 1994, 231 SCRA 408,411.
- [27] Office of the Court Administrator v. Bernardino, A.M. No. P-97-1258, January 31, 2005, 450 SCRA 88, 116-117.
- [28] Paragraph 4, Section H, Chapter 1.
- [29] Chapter IX, D(4).
- [30] Supra, note 27.
- [31] Id. at 117, 119-120.
- [32] The Administrative Code of 1987.
- [33] Supra, note 27, at 118.
- [34] Ibid.
- [35] Ibid.

[36] Circular No. 50-95 took effect on November 1, 1995.

[37] 287 SCRA 510, 529.

[38] Promulgated on July 9, 1993.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.