

UNKNOWN MUNICIPAL COUNCILOR OF STO. DOMINGO, NUEVA ECIJA, COMPLAINANT, VS. MARIO V. ALOMIA, JR., RESPONDENT.*A.M. No. P-91-660. August 07, 1992*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d61d5e8e6fe4/>**PER CURIAM:**

Respondent clerk of court of the Municipal Trial Court of Sto. Domingo, Nueva Ecija was accused in an anonymous letter-complaint dated August 23, 1991, addressed to this Court, of the following acts of misconduct and dishonesty, to wit: 1) failure to submit monthly collection reports; 2) pocketing collections for his own use; 3) collecting P50.00 for a simple order of dismissal of a criminal case; and 4) infidelity in the custody of Court exhibits particularly handguns which are report-edly missing (Rollo, p.3). The same letter-complaint further prayed for an investigation and auditing of the said municipal trial court.

In a First Indorsement dated September 11, 1991, Deputy Court Administrator Reynaldo Suarez referred the matter to Judge Efren B. Mallare, Presiding Judge of the MTC Sto. Domingo, Nueva Ecija for investigation (Rollo, p.1).

Pursuant to the aforementioned indorsement from the Deputy Court Administrator, a Memorandum was issued by Judge Mallare directing the respondent Alomia, Jr. to file his answer and/or comment on the complaint lodged against him. In compliance, respondent filed a verified answer denominated “Affidavit of Merits” (Rollo, p.5) denying the allegations in the complaint, and alleging among others, the following:

1. He had submitted a report of collections as well as remitted all amounts collected as of July 1991 to the Accounting Division of this Court.
2. All exhibits which were turned-over to him by his predecessor, Dante Tesoro, particularly the handguns, were in the steel cabinet of the trial court, and none is missing; and
3. The accusation that he collected P50.00 for the dismissal of criminal cases has no basis.

Thereafter, an investigation of the case was conducted. Witnesses were heard and evidence was admitted during the hearings before Judge Mallare.

In a “Second Indorsement” dated November 6, 1991, (Rollo, p. 107) Judge Efren B. Mallare made a report of his findings, to wit:

“The undersigned after a thorough investiga-tion x x x respectfully submits the following established facts:

“Regarding the accusation that Mario V. Alomia, Jr. has been pocketing and not submitting his monthly collections commencing from January, 1991 up to August 23, 1991, the date when the unknown (sic) letter was sent to His Honor, is not quite correct because after verifying the records, Mr.Alomia was able to produce monthly collections commencing from January, 1991 to August 1991 although it appearing (sic) from the said monthly collections that Mr. Alomia did not comply with the Circular of the Hon. Supreme Court which categorically States that Monthly Report of Col-lections shall be remitted to the Accounting Division of the Supreme Court within ten (10) days after the end of the month as Mr. Alomia’s monthly collections from

January 1991 to August 1991 inclusive, or for a period of eight (8) months were only remitted on August 27, 1991. x x x . Although Mr. Alomia has admitted that during the time that he was waiting for the other collections, he also spent some of the collections but later on reimbursed all the monies received by him and that of his other co-employees and were all remitted to the Hon. Supreme Court.

“Regarding the missing exhibits particularly the handguns, Mr. Alomia has requested ample time within which to locate the missing firearms as the Presiding Judge has discovered from the records of all the cases involving illegal possession of firearms that four (4) firearms which were all exhibits in four criminal cases were missing from the files of the Court. x x x.

“The investigation conducted x x x completely belies the statement of Mr. Alomia that no firearms were turned over to him x x x.

“The records show that on October 17, 1991, Mr. Alomia, Jr. brought to the Court one paltik Cal. 12 shotgun, which was one of the exhibits x x x and according to said Clerk of Court he has taken the said firearm from Fr. Evaristo Cupatan x x x, said Father Cupatan has testified in this case.

“From the evidence x x x it indubitably appeared (sic) that Mr. Mario V. Alomia, Jr. the Clerk of Court of this Court, has been an instrument (sic) for the loss of various exhibits from this Court and so on November 4, 1991, he revealed the whereabouts of the missing firearms by submitting to this Court an “Affidavit”. x x x.

“Furthermore, x x x the undersigned has discovered that exhibits involving monies in illegal gambling cases x x x after the cases were dismissed and sent to the archives, were spent and utilized by Mr. Alomia for the repair of the typewriter belonging to the Hon. Supreme Court; and some monies used as exhibits were either missing or deposited with the Municipal Treasurer of Sto. Domingo, Nueva Ecija.

“Likewise it has been discovered by the undersigned that in order that Mr. Mario V. Alomia could comply with his obligation to make remittance on his monthly collections report he has to issue original copies of official receipts to himself and then submitted the duplicate copy to the Supreme Court.

“x x x (S)ince the appointment of Mr. Alomia as Clerk of Court x x x the undersigned has discovered that he was receiving civil cases without requiring the party plaintiff or representative to pay the filing and other legal fees on the date of the filing of the civil complaint.

“The Clerk of Court received filing fees without the civil complaint filed with this Court.

“Carpeta in Civil Case No. 1444 was (sic) missing and the Clerk of Court admitted that he returned it to plaintiff’s counsel for lack of annexes, but (up to the filing of Second Indorsement) said carpeta has not yet been returned to this Court.

“The undersigned is not in a position to know whether conspiracy has been committed x x x by the former Clerk of Court Dante S. Tesoro, now the Legal Researcher of Branch 29, RTC, Cabanatuan City; the Clerk of Court, Mario V. Alomia, Jr., and the former Acting Judge x x x Hon. Tertulo A. Mendoza, Presiding Judge of the MCTC, Quezon--Licab, Nueva Ecija; and therefore (the matter is being submitted) to the sound discretion of the Hon. Supreme Court through the Hon. Reynaldo L. Suarez.”

On March 13, 1992, the Office of the Court Administrator through Deputy Court Administrator Reynaldo L. Suarez made the following recommendations:

“1. The findings of Judge Mallare as a result of the investigation he conducted be ratified; and 2. respondent Sheriff (sic) be dismissed from the service.”

We agree.

It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have

a direct relation to and be connected with the performance of official duties, amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office (*Sarigumba vs. Pasok*, 155 SCRA 646 [1987]).

In the case at bar, respondent as clerk of court of a municipal trial court is required by reason of his official duties to safely keep all records and public property committed to his custody as provided under Sec. 7, Rule 136, Rules of Court, to wit:

“Sec. 7. Safekeeping of property - The clerk of court shall keep all records, papers, files, exhibits and public property committed to his charge, including the library of the court, and the seals and furniture belonging to his office.”

Section 12 of the same Rule directs the clerk of court to keep such other books and perform such other duties as the court may direct.

The investigation of conducted by Judge Mallare shows that respondent Alomia, Jr. was negligent in the performance of his official duties. He failed to render utmost dedication and honesty to his job. The exhibits which were turned over to his custody, particularly the firearms and ammunition, are missing. Likewise, the duplicate copies of Monthly Collection Reports for 1988, 1989, and 1990 were lost (*Rollo*, p. 40). Monies in his custody, were spent by him for unauthorized expenditures. He failed to perform other duties ascribed to him by reason of his office, such as the submission of the Monthly Report of Collections within ten (10) days after the end of the month for which the report corresponds; receiving civil cases for filing only after seeing to it that all legal fees have been paid and receiving filing fees only after the corresponding complaints have been filed.

In the case of *Montemayor vs. Collado* (107 SCRA 258 [1981]), this Court ruled:

“The conduct and behavior of everyone connected with an office charged with dispensation of justice, like the courts below, from the presiding judge to the lowest clerk, should be circumscribed with responsibility. His conduct, at all times, must not only be characterized by propriety and above all must be above suspicion.”

Considering that the duties of the clerk of court are vast as well as sensitive, this Court has ruled in *Bello vs. Mabbun* (Adm. Matter P-88-178, [1988]) that there is need for utmost integrity and dedication in the performance of such functions. Again, in *Ablanida vs. Intia* (Adm. Matter R-770-P [1988]) We ruled that acts of dishonesty cannot be countenanced, especially when it is committed by an employee of the judiciary who ought be an example of integrity, uprightness, and honesty.

The Civil Service Law (P.D. No. 807) covers government employees, including herein respondent Clerk of Court. Respondent's misconduct, misfeasance or malfeasance in the performance of his official duties consisting of dishonesty; inefficiency and incompetence in the performance of official duties; and conduct prejudicial to the best interest of the service, are grounds for dismissal under Section 36 (b) pars. (1), (8), and (27).

WHEREFORE, respondent Mario V. Alomia, Jr. is hereby DIS-MISSED from service with forfeiture of all retirement benefits, and with prejudice to re-employment in any agency of the government including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.

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