



PHILJA E-Alerts

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JUDGES

- **Simple Neglect of Duty; Conduct Unbecoming a Judge**

The Court agrees with the OCA that respondent judge should be held administratively liable for simple neglect of duty. Although the custody, submission, and monitoring of monthly reports of collections and deposits were mainly the responsibility of the clerk of court, he is, however, subject to the control and supervision of the presiding judge. As the administrative officer who has authority over the office of the clerk of court, respondent judge should be familiar with the different circulars of the Court as his duty is not confined to adjudicatory functions, but includes the administrative responsibility of organizing and supervising the court personnel to secure a prompt and efficient dispatch of business. It is his responsibility to see to it that the clerk of court performs his duties and observes the circulars issued by the Supreme Court. Thus, he should have taken the necessary steps to ensure that the correct procedure in the collections and deposits of court funds were dutifully carried out.

In addition, respondent judge should likewise be held administratively liable for conduct unbecoming of a judge for his inappropriate actions and use of intemperate language. The incident narrated by the audit team was never denied by respondent judge who offered his apologies to the audit team and begged for their understanding and forgiveness for his outburst and rise in temper.

The New Code of Judicial Conduct for the Philippine Judiciary requires judges to exemplify propriety at all times in order to preserve public confidence in the judiciary. Respondent judge must comport himself irreproachably, not only while in the discharge of official duties but also in his personal behavior every day. He should exercise judicial temperament in all his dealings and must maintain composure and equanimity at all times.

Respondent judge was found guilty of simple neglect of duty and conduct unbecoming of a judge for which he was fined in the amount of P20,000 with a warning that a repetition of the same or similar act shall be dealt with more severely. **[A.M. No. MTJ-15-1854 (Formerly A.M. No. 14-4-50-MCTC), July 11, 2017]**

CLERKS OF COURT

- **Gross Neglect of duty**

Circular No. 32-93 requires all Clerks of Court/Accountable Officers to submit to the 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 original 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 the court's seal and a copy of the acknowledgment receipt.

These circulars are mandatory in nature and designed to promote full accountability for government funds. Failure to observe these circulars, resulting in loss, shortage, destruction, or impairment of court funds and properties, makes the clerk of court or accountable officer liable.

In the case at bench, respondent clerk of court readily admitted his failure to deposit the court collections on time and offered several excuses for his omission among which are the safety of the personnel and the distance of the court from the bank which is located in Town A. Nevertheless, his mandate was clear. He is not allowed to keep funds in his custody as the same should be immediately deposited in the nearest LBP branch. In case daily deposits of cash collections are not possible, the deposit shall be made at the end of every month. But if the collection exceeds P500, the deposit shall be made immediately. Notwithstanding the guidelines, respondent failed to make the necessary deposit for the fiduciary fund for the months of February, April, August, and September 2013, which amounted to P15,000, P26,000, P90,000, and P80,000, respectively. If there was indeed a problem with the transportation, the matter should have been brought to the attention of the court. Moreover, if respondent was truly scared to make the daily deposit on account of distance and safety issues, why did he keep the money in his house in Town A, the same place where the LBP was located.

Respondent was equally remiss in the keeping of the official cashbooks and in his obligation to send the required reports of deposits and withdrawals to the OCA. From the time he assumed office in January 2012, the audit team discovered that the official cashbooks had not been updated and that respondent failed to submit a single report to the OCA.

Respondent explained that his shortcomings were due to his being new to the court, lack of cooperation from the staff and heavy workload. These excuses, however, are not acceptable. Respondent could not hide behind the incompetence of his subordinates. For failing to keep proper records of all collections and remittances and to submit the monthly reports, he should not shift the blame to the staff in-charge. As the clerk of court, he has general supervision over all court personnel and it is his duty to see to it that his subordinates have been faithfully performing their duties and responsibilities to ensure full compliance with circulars issued by the Court. It is incumbent upon him to personally attend to the collection of the fees, the safekeeping of the money collected, the making of the proper entries thereof in the corresponding book of accounts, and the deposit of the same in the offices concerned.

Respondent was found guilty of gross neglect of duty for which he was fined in the amount of P20,000 with a warning that a repetition of the same or similar offense shall be dealt with more severely. *[A.M. No. P-15-3335 (Formerly A.M. No. 15-04-98-RTC), June 28, 2017]*

- **Gross Dishonesty; Grave Misconduct**

The Court, in Circular No. 13-92 and Circular No. 5-93, mandates all clerks of courts to immediately deposit all fiduciary collections, upon receipt thereof, with the Land Bank, as an authorized depository bank. Further, the Court has always reminded clerks of court, cash clerks and all court personnel entrusted with the collections of court funds to deposit immediately with authorized government depositories the various funds they have collected because they are not authorized to keep funds in their custody. Also, the failure to deposit these judiciary collections on time deprives the court of the interest that may be earned if the amounts were deposited in a bank. The unwarranted failure to fulfill these responsibilities deserves administrative sanction and not even the full payment of the collection shortages will exempt the accountable officer from liability.

In the present case, respondent committed several irregularities in the administration of court funds. Not only did he incur unexplained cash shortages in the Fiduciary Fund and in the Judiciary Development Fund, he also failed to deposit court collections on time and neglected to submit his monthly financial reports to the OCA. Worst, he collected cash bonds without issuing official receipts, falsified official receipts and lost several booklets of official receipts. Undeniably, respondent abused the trust and confidence reposed in him and failed to perform his duty with utmost loyalty and honesty.

The Court has said time and again that those who work in the judiciary, from the highest official to the lowest clerk, must adhere to high ethical standards to preserve the court's good name and standing. As officers of the court and agents of the law, they should be examples of responsibility, competence and efficiency, and they must discharge their duties with due care and utmost diligence [f]or the Court will never tolerate any conduct which would violate the norms of public accountability, and diminish, or even tend to diminish, the faith of the people in the judiciary.

The Court found respondent guilty of gross dishonesty and grave misconduct. Considering his resignation from the service, the Court ordered his retirement benefits forfeited and he was declared barred from reemployment in any branch or instrumentality of the government, including government-owned and controlled corporations. **[A.M. No. MTJ-15-1854 (Formerly A.M. No. 14-4-50-MCTC), July 11, 2017]**

- **Gross Neglect of Duty; Dishonesty; Grave Misconduct**

As held in *Office of the Court Administrator v. Panganiban*, clerks of court, as custodians of court funds and revenues, have the duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody. Such functions are highlighted by OCA Circular Nos. 50-95 and 113-2004 and Administrative Circular No. 35-2004, which mandate clerks of court to timely deposit judiciary collections as well as to submit monthly financial reports on the same. And failure of the clerk of court to remit court funds is tantamount to gross neglect of duty, dishonesty and grave misconduct.

Records disclose in this case that there were missing 118 booklets of official receipts and 87 pieces of official receipts during respondent's term as clerk of court. From the Final Report of the Financial Audit Team, her total accountabilities amounted to P1,534,916.70, consisting of Clerk of Court Fiduciary Fund (P774,603.91), Judiciary Development Fund (P569,851.39), Special Allowance for the Judiciary Fund (P124,595.40), General Fund (P64,866), and Mediation Fund (P1,000). Evidently, respondent was remiss in her duties to safeguard the receipts and to deposit on time the funds entrusted to her. She likewise failed to comply with the presiding judge's memoranda to explain, among other things, her failure to deposit fiduciary fund collections, to submit monthly report of collections, and to turn over all records in her possession. Her unexplained actions coupled with her absence without official leave lead the Court to conclude that she went into hiding to run away from her accountabilities. Such silence and inaction are indications of guilt. And considering the decision of the Court in A.M. No. P-07-2338, these additional administrative cases against her speak eloquently of the gravity of her offenses, and should be characterized as gross in nature.

It must be emphasized that the safekeeping of funds and collections is essential to an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds. Clerks of

court and those acting in this capacity perform a delicate function as designated custodian of the court's funds, revenues, records, properties and premises. Hence, any loss, shortage, and destruction or impairment of those funds and property makes them accountable.

Following the Court's ruling in *Office of the Court Administrator v. Panganiban*, respondent's actions and her continued refusal to make satisfactory explanations thereto make her liable for gross neglect of duty, dishonesty and grave misconduct, which merit the supreme penalty of dismissal. [**A.M. No. P-06-2253 (Formerly A.M. No. 06-9-297-MTC), July 12, 2017**]

- **Dishonesty; Grave Misconduct; Gross Neglect of Duty; Conduct Prejudicial to the Best Interest of the Service**

In this case, respondent, being the clerk of court, is considered to be the chief administrative officer of said court. With respect to the collection of legal fees, she performs a delicate function as the judicial officer entrusted with the correct and effective implementation of regulations thereon. Even the undue delay in the remittances of amounts collected by her at the very least constitutes misfeasance. Moreover, as a clerk of court, she is the custodian of court funds with the corresponding duty to immediately deposit various funds received by her and not keep the funds in her custody. In *OCA v. Acampado*, it was held that a clerk of court's failure to perform the aforementioned duties exposes him/her to administrative liability for Gross Neglect of Duty, Grave Misconduct, and also Serious Dishonesty, if it is shown that there was misappropriation of such collections, x x x.

x x x x

Here, respondent voluntarily and unconditionally admitted that she authored the various acts of falsifying and tampering official receipts, resulting in cash shortages in her accountabilities. More importantly, she expressed her willingness to return the amount comprising such shortages, thereby impliedly admitting that she misappropriated the same for her personal use. Clearly, the foregoing admissions rendered respondent administratively liable for the same.

Respondent was found guilty of dishonesty, grave misconduct, gross neglect of duty and conduct prejudicial to the best interest of the service for which she was ordered dismissed from the service, her civil service eligibility cancelled, her retirement benefits except accrued leave credits forfeited and declared perpetually disqualified from reemployment in the government service, including government-owned and controlled corporations. [**A.M. No. P-09-2649 (Formerly A.M. No. 09-5-219-RTC), August 1, 2017**]

LEGAL RESEARCHER

- **Dishonesty; Grave Misconduct; Gross Neglect of Duty; Conduct Prejudicial to the Best Interest of the Service**

While respondent was only a legal researcher, it must nevertheless be pointed out that he acted as the RTC's Officer in Charge from February 1997 to July 31, 2005 and was therefore an accountable disbursement officer thereof. In fact, during this period, he incurred cash shortages, all of which were left unexplained as he failed to file his written explanation despite his requests for numerous extensions of time to do so. As succinctly put by the OCA, his inexplicable silence on the matter can already be viewed as an admission of guilt on his part, warranting the imposition of administrative liabilities against him.

x x x x

Respondent was found guilty of dishonesty, grave misconduct, gross neglect of duty and conduct prejudicial to the best interest of the service. However, it must be noted that in an earlier case decided by the Court respondent was already meted the penalty of dismissal along with its accessory penalties. Further, in another case respondent was supposed to be meted the same penalty as well, if not for the earlier imposition thereof. Thus, he was instead meted with the penalty of a fine in the amount of P40,000. Hence, the Court can no longer impose the penalty of dismissal with its accessory penalties to respondent in this case. In lieu thereof, a penalty of a fine in the amount of P40,000 shall be imposed on him instead, which amount shall be deducted from his accrued leave credits and if such is insufficient, he shall be ordered to pay the balance. **[A.M. No. P-09-2649 (Formerly A.M. No. 09-5-219-RTC), August 1, 2017]**

COURT INTERPRETER

- **Neglect of duty**

Respondent failed to monitor the entries in the official cashbooks because she relied heavily on X who was assigned by the presiding judge to perform such duty since the tenure of the former clerk of court. Though the updating of the court's cashbooks was delegated to X, it was her responsibility, being the OIC-clerk of court, to oversee the work of her subordinate. As the court's administrative officer, respondent must ensure that her subordinates are performing their tasks properly, promptly and efficiently.

Respondent likewise incurred shortages in the various funds of the court amounting P4,407.10 as a result of over-remittances and delayed remittances. These shortages, as found by the OCA, were the results of an honest mistake in the computation of collections and were all accounted for in the Court's financial records. Time and again, the Court has stressed that safekeeping of funds and collections is essential to an orderly administration of justice, and no protestation of good faith can override the mandatory nature of the circulars designed to promote full accountability for government funds. Respondent's failure to exercise diligence in the performance of her duty deserves administrative sanction.

Delay in the remittances of collections constitutes neglect of duty on the ground that failure to remit the court collections on time deprives the court of interest that may be earned if the amounts are deposited in a bank. Shortages in the amounts to be remitted and the years of delay in the actual remittance constitute neglect of duty for which the respondent shall be administratively liable. x x x

Respondent was found guilty of neglect of duty and fined in the amount of P10,000 with a warning that a repetition of the same or similar offense shall be dealt with more severely. **[A.M. No. P-15-3335 (Formerly A.M. No. 15-04-98-RTC), June 28, 2017]**