



# PHILJA E-Alerts

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## CLERKS OF COURT

- **Gross neglect of duty; Dishonesty; and Grave Misconduct prejudicial to the best interest of the service**

The clerk of court is an important officer in our judicial system. His office is the nucleus of all court activities, adjudicative and administrative. His administrative functions are as vital to the prompt and proper administration of justice as his judicial duties.

The clerk of court performs a very delicate function. He or she is the custodian of the court's funds and revenues, records, property and premises. Being the custodian thereof, the clerk of court is liable for any loss, shortage, destruction or impairment of said funds and property. Hence, clerks of court have always been reminded of their duty to immediately deposit the various funds they receive to the authorized government depositories, for they are not supposed to keep the funds in their custody. The same should be deposited immediately upon receipt thereof.

Section B(4) of Supreme Court (SC) Circular No. 50-95, on the collection and deposit of court fiduciary funds, mandates that:

4. All collections from bail bonds, rental deposits, and other fiduciary collections shall be deposited within 24 hours by the Clerk of Court concerned, upon receipt thereof, with the Land Bank of the Philippines.

SC Circular Nos. 13-92 and 5-93 provide the guidelines for the proper administration of court funds.

SC Circular No. 13-92 commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Section 4 of SC Circular No. 5-93 designates the Land Bank as the depository bank for the JDF.

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Here, it was established that cash bonds for the FF were not remitted to the depository bank, but instead, were kept by respondent clerk of court until withdrawn by the bondsmen. It was likewise established that the GF-old, SGF, JDF, SAJF and LRF were irregularly remitted. In fact, the audit team found that the JDF, SAJF and LRF collections for the corresponding periods were remitted only on February 13, 2013, after several years from the date of collection, relative to the audit findings and memorandum of the COA. For this alone, respondent Clerk of Court should be penalized as the delayed remittance of cash collections by clerks of court and cash clerks constitute gross neglect of duty.

It was likewise established that the One Hundred Thousand Pesos (P100,000) unremitted FF collection was in the possession of respondent, as the latter admitted that it was the cash bond in the "XXX Case" and said amount was on hand. However, when the audit team directed respondent clerk of court to bring the said amount, he failed to return to the court on the same day to turn it over. Such failure was detrimental to respondent's cause. Clerks of court are not supposed to keep the funds in their custody. Further, settled is the rule that "the failure of a public officer to remit funds upon demand by an authorized officer [is] *prima facie* evidence that the public officer has put such missing funds or property to personal use."

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By failing to properly remit the cash collections constituting public funds, respondent violated the trust reposed in him as the disbursing officer of the Judiciary. Delayed remittance of cash collections constitutes gross neglect of duty because this omission deprives the court of the interest that could have been earned if the amounts were deposited in the authorized depository bank. It should be stressed that clerks of court are required by SC Circular No. 13-92 to withdraw interest earned on deposits, and to remit the same to the account of the JDF within two weeks after the end of each quarter. Delay in the remittance of court funds in the period required casts a serious doubt on the court employee's trustworthiness and integrity. Respondent's failure to remit the court funds is tantamount to gross neglect of duty, dishonesty and grave misconduct prejudicial to the best interest of the service.

Respondent's attempt to pass the blame on his subordinate, Ms. A, stating that he is no longer in charge of the collection of docket/legal fees and of handling and controlling the official receipts as he immediately issued a memorandum designating Ms. A as cash clerk and the one in charge of the collection of docket/legal fees after his six months suspension, cannot be countenanced. As the court's administrative officer, he had control and supervision over all court records, exhibits, documents, properties and supplies. Furthermore, he had to see to it that his subordinates performed their functions well. Clerks of court are key figures in the judicial system. For this reason, they must be assiduous in performing their official duties and in supervising and managing court dockets and records. Moreover, in the case of *Office of the Court Administrator v. Bernardino*, the Court held that "[c]lerks of court cannot pass the blame for the shortages incurred to his/her subordinates who perform the task of handling, depositing, and recording of cash and check deposits x x x for it is incumbent upon the clerk of court to ensure his/her subordinates are performing his/her duties and responsibilities in accordance with the circulars on deposits and collections to ensure that all court funds are properly accounted for."

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Respondent clerk of court repeated his infractions despite the COA auditor's audit findings on his late remittances of collections and advise to retribute the same. We note that he was previously administratively charged for the deliberate delay in the remittance of collections, falsification of documents and unaccounted official receipts in A.M. No. 02-4-03-SDC, wherein he was found guilty of gross neglect of duty in the custody of court property and was suspended for 18 months without pay. It appears that he did not learn from his previous mistakes and has ignored the warnings given to him.

As clerk of court, he should have known that he performs a delicate function as designated custodian of the court's funds, revenues, records, properties and premises. As such, he should have discharged his duties with due care and utmost diligence. Any deceitful act, conduct of dishonesty and deliberate omission in the performance of duties are grave offenses which carries the extreme penalty of dismissal from the service even if committed for the first

time. Hence, this Court is left with no other recourse but to impose upon him the extreme penalty of dismissal from the service.

Finding respondent guilty of gross neglect of duty, dishonesty, and grave misconduct prejudicial to the best interest of the service, the Court ordered him dismissed from the service with cancellation of eligibility, forfeiture of all his retirement benefits except his accrued leave credits, and with perpetual disqualification for reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. **[A.M. No. SDC-14-7-P (Formerly A.M. No. 14-09-01-SC), December 6, 2016]**