

EN BANC

[AM. No. P-21-4102 [Formerly A.M. No. 18-04-42-MTC], January 05, 2021]

RE: REPORT ON THE FINANCIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT, LABO, CAMARINES NORTE

DECISION

PER CURIAM:

This administrative case stemmed from the March 21, 2018 Memorandum^[1] of Eduardo G. Tesea, Team Leader of the Office of the Court Administrator (OCA) Financial Audit Team (Audit Team) of the Fiscal Monitoring Division (FMD), Court Management Office (CMO) to Court Administrator Jose Midas P. Marquez charging Eden P. Rosare (Rosare), Clerk of Court II, Municipal Trial Court (MTC), Labo, Camarines Norte of: (a) violation of OCA Circular No. 13-92 dated March 1, 1992^[2] as amended by Supreme Court (SC) Administrative Circular (A.C.) No. 3-00 dated June 15, 2000^[3] and OCA Circular No. 50-95 dated October 11, 1995^[4]; (b) Gross Dishonesty; and (c) Malversation of Public Funds or Property.^[5]

The Team conducted two audits on the accountabilities of Rosare as Clerk of Court II of MTC, Labo, Camarines Norte (MTC Labo) from November 2014 to February 28, 2017 in compliance with Travel Order No. 126-2014 dated November 4, 2014^[6] and Travel Order No. 23-2017 dated February 24, 2017^[7].

In November 2014, the Audit Team conducted an audit^[8] of the cash and accounts of Rosare due to her failure to submit the monthly financial reports despite due notice as required by OCA Circular No. 32-93^[9] dated July 9, 1993. The audit disclosed that Rosare's cash on hand in the amount of P154,080.00 did not correspond with the unremitted or undeposited collections on all funds in the amount of P222,484.00.

The audit also revealed that Rosare delayed the deposit of her judiciary fund collections in the total amount of P222,484.00 which resulted in a shortage of P68,404.00. However, after arduous effort to find the shortage of P68,404.00, Rosare found a portion of it in the drawer next to her table which eventually reduced the shortage on the Fiduciary Fund (FF) and the Sheriffs Trust Fund (STF) to P1,000.00 each and on the Special Allowance for the Judiciary Fund (SAJF) to P3,168.10.

Rosare likewise failed to deposit her collections within the day or the next banking day contrary to the provisions of the Commission on Audit and Department of Finance (COA-DOF) Joint Circular 1-81 dated January 1, 1981^[10], OCA Circular No. 13-92 dated March 1, 1992^[11] and SC A.C. No. 3-00 dated June 15, 2000^[12]. The

collections for the FF were also not deposited on time in violation of OCA Circular No. 50-95 dated October 11, 1995^[13].

Furthermore, Rosare overlooked her task of filing and submitting monthly reports of collections and deposits or withdrawals to the Accounting Division (AD), Financial Management Office (FMO), OCA, as required in OCA Circular 113-04 dated September 16, 2004^[14] which provides that monthly reports be sent not later than the 10th day of each succeeding month to the Chief Accountant of the AD, FMO, OCA. She likewise failed to refund several cash bonds in the total amount of P86,000.00 to the bondsmen or to their authorized representatives even when the amount was already withdrawn from the depository bank. Also, Rosare allocated the fees on the solemnization of marriage between the Judiciary Development Fund (JDF) and the SAJF which was already disallowed by Administrative Order (A.O.) No. 125-2007 dated August 9, 2007.^[15] She also failed to follow OCA Circular No. 22-94 dated April 8, 1994^[16] as to the proper handling and use of official receipts.

Compounding her failures, Rosare also did not properly update the official cash books by regularly entering therein the daily collections as per SC A.C. No. 3-00 dated June 15, 2000 and to certify the entries therein as correct. She likewise did not use the prescribed cash book on General Fund (GF) account of the Court, which is comprised of forfeited or confiscated bonds and income derived from the interest earned on FF or STF's account. She failed to attach the prescribed Legal Fees Form in all case records as required under OCA Circular No. 26-97 dated May 5, 1997.^[17] Finally, the STF collections were erroneously deposited by Rosare in the FF bank account of the court.

In a Letter dated November 19, 2014,^[18] Rosare was required to explain in writing how and why she incurred the shortages of P1,000 on FF, P1,000 on the STF and P3,168.10 on the SAJF. She was likewise required to deposit the total amount of P222,484.00 corresponding to the unremitted or undeposited collections on various funds; to submit a written explanation why she failed to deposit the same immediately with the authorized government depositories; and to explain why she incurred a shortage of P68,404.00.

Name of Fund	Amount (P)
Fiduciary Fund (FF)	202,000.00
Sheriffs Trust Fund (STF)	16,000.00
Judiciary Development Fund (JDF)	2,203.20
Special Allowance for the Judiciary Fund (SAJF)	1,780.80
Mediation Fund (MF)	500.00
TOTAL	222,484.00

She was likewise required to: (a) deposit or remit all judiciary collections on time as per the COA-DOF Joint Circular 1-81 and OCA Circular No. 13-92 dated March 1, 1992 as amended by SC A.C. No. 3-2000 dated June 15, 2000 or otherwise deposit within a reasonable period of time; (b) follow the directive of OCA Circular No. 113-04 dated September 16, 2004; (c) properly file the Monthly Reports of Collections or Deposits and Withdrawals on FF and STF accounts with its corresponding attachments; (d) open a bank account for STF using the unwithdrawn STF of

P80,000.00 deposited with the FF account as an initial deposit and report the same separately under STF account with the presiding judge as co-signatory; (e) refrain from holding the withdrawn cash bond for a long period of time and implement an effective method of returning the said cash bond to the bondsmen or his or her authorized representatives; (f) reconcile the book balance with cash on hand daily and follow the provision of Chapter 2 (10) of the Cash Examination Manual; (g) use the prescribed cash book for General Fund; (h) follow the guidelines in OCA Circular No. 22-94 dated April 8, 1994; (i) deposit all fees collected for the solemnization of marriage to the JDF; (j) use the prescribed cash book on all funds maintained by the court, i.e., one cash book per fund; (k) ensure a comprehensible entry in the triplicate copies of official receipts; (l) attach Legal Fees Form on all case records as per OCA Circular No. 26-97 dated May 5, 1997; and (m) coordinate with FMO, OCA regarding the requirements on fidelity bond in compliance with Section 101 of Presidential Decree (P.D.) No. 1445^[19].

Moreover, Rosare was reminded to issue receipts for every STF transaction on a per case basis and reported separately. Immediately after effecting a service of court processes, the sheriff or process server or other authorized court personnel shall prepare a Statement of Liquidation which shall be approved by the Executive Judge or Presiding Judge to be submitted to the Clerk of Court.

Presiding Judge Salvador C. Villarosa, Jr. of MTC Labo was requested to assign a court personnel who can assist Rosare in handling financial transactions, particularly in the recording in the cashbook and the preparation of the Monthly Report of Collections and Deposits or Withdrawals, and in issuing receipts and assessment of filing fees.

On February 16, 2017, pursuant to the January 23, 2017 Memorandum approved on February 13, 2017 by the Chief Justice, Rosare was relieved from her position as Clerk of Court and her authority to receive, collect and withdraw any court fund was suspended effective immediately.^[20]

In February 2017,^[21] the Audit Team conducted another audit of Rosare's books of accounts for the same reason, that is, failure to submit the monthly financial reports despite due notice. An inventory of the cash on hand in the amount of P23,625.00 and its corresponding official receipts revealed that MTC Labo has not been depositing its daily collections as per circulars issued by the Court. After the audit, the Audit Team found that Rosare had a shortage of P456,470.381, to wit^[22]:

Name of Fund	Shortage (P)
Fiduciary Fund (FF)	381,894.18
Sheriffs Trust Fund (STF)	41,000.00
Judiciary Development Fund (JDF)	3,842.20
Special Allowance for the Judiciary Fund (SAJF)	4,228.00
Mediation Fund (MF)	25,500.00
General Fund (GF)	6.00
TOTAL	456,470.38

Rosare failed to regularly submit the Monthly Reports of Collections and Deposit or Withdrawals on all funds to the AD, FMO, OCA as per OCA Circular 113-04 dated September 16, 2004. She also did not remit or deposit on a regular basis to the Land Bank of the Philippines (LBP), Labo Branch in accordance with COA-DOF Joint Circular 1-81 and in OCA Circular No. 13-92 dated March 1, 1992 as amended by SC A.C. No. 3-2000 dated June 15, 2000.

Moreover, Rosare intentionally detached or severed pages 73 and 74 from the FF cashbook for no apparent reason. She also deliberately understated her collections on JDF and SAJF in several instances in January 2017. As to the STF, the applicable rules regarding the liquidation of cash advances made by the process server were not fully complied with.

Also, MTC Labo has no official cashbook on the GF account contrary to the rule that each fund account must exclusively use one official cashbook. In addition, certifications as to the correction of entries in the cashbooks on all fund accounts were not regularly observed by Rosare or any accountable officer. Several entries on the triplicate copies of the issued official receipts in FF and STF were not legible. Finally, the recommendations made in the first audit conducted on November 1 to 12, 2014 were not fully complied with by Rosare.

In a Letter dated March 23, 2017,^[23] the Audit Team recommended that Rosare be directed to: (a) submit all necessary documents to support all unauthorized and unaccounted FF and STF withdrawals in the bank or otherwise reconstitute the shortages in the amount of P469,464.38 within ten (10) days from notice; (b) explain in writing within ten (10) days from notice why: (i) she incurred such shortages and failed to comply with the Court circulars and issuances regarding proper handling of court collections; (ii) she purposely detached or severed pages 73 and 74 from the FF cashbook; and (iii) she understated her collections for JDF and SAJF in various instances in January 2017; and (c) submit all required financial reports by the AD, FMO, OCA.

The Audit Team likewise recommended that Hans P. Camu, the Court Interpreter and Officer-in-Charge, be advised to: (a) deposit or remit all judiciary collections on time; (b) certify the correctness of entries in the cashbooks on all funds; (c) remit all GF collection in the Bureau of Treasury Savings Account No. 3402-2745-13; (d) follow the procedures on proper handling and disbursement of STF account; (e) use the prescribed cash book on GF account; (f) ensure a legible entry in the triplicate copies of official receipts; (g) reconcile the book balance with cash on hand on a daily basis and follow the provision of Chapter 2 (10) of the Cash Examination Manual; (h) remit all GF collections in Bureau of Treasury Savings Account No. 3402-2745-13; and (i) coordinate with the FMO, OCA regarding the requirements on Fidelity Bond in compliance with Section 101 of P.D. No. 1445.

In her Explanation dated April 28, 2017,^[24] Rosare reasoned that she never received the letters of Atty. Gilda A. Sumpo, the Chief Judicial Officer of AD, requiring her to submit monthly or quarterly financial reports on different fund accounts of the court. She claimed that the said letters were received by Lovely Camonas, the Court Stenographer of MTC Labo, who did not turn over said letters to her. She showed the alleged registry receipts to the Audit Team as proof that she mailed the alleged unsubmitted reports required by the FMO.

She explained that the shortages on FF or STF were based on the following: (a) the unauthorized or unaccounted FF/STF bank withdrawals in the amount of P213,000.00 referred as bail bonds were withdrawn and received by the bondsmen; (b) the over-withdrawal of interest charged in the amount of P894.18 is not allowed by the LBP; (c) the amount of PI 6,000.00 was no longer deposited because Aida Francisco, the bondsman, withdrew the cash bond on November 26, 2014; (d) the unauthorized STF withdrawals in the total amount of P13,000.00 were not yet accounted for because of missing files; (e) there was no double withdrawal of P3,000.00 on STF because of erroneous input of case numbers; and (f) the portion of the undeposited amount of P144,595.00 was not yet turned over to her for deposit while the rest of the undeposited amount had not yet been accounted for because of missing files.

Furthermore, she clarified that the shortages in the STF were due to the following: (a) the undeposited STF collection in the amount of P28,000.00 refers to the cash advance of the process server which was not yet liquidated as there was yet no court order from the presiding judge; (b) the shortage in the amount of P12,000.00 was erroneously deposited in the FF account; and (c) the unsupported bank withdrawal of P1,000.00 was withdrawn on March 26, 2015 for a certain case.

Rosare further explained that the shortages on the JDF and the SAFJ in the amounts of P3,842.20 and P4,228.00, respectively, were due to her failure to reconcile the amounts indicated in the official receipts and in the cashbook due to heavy workload. Lastly, Rosare reasoned that the shortage on the MF was due to missing files.

She elucidated that she purposely detached or severed pages 73 and 74 from the FF cashbook because of her writings on it, that is, "*GUSTO KO NG MAGPAKAMATAY PAGOD AT HIRAP NA HIRAP NA AKO. SHIT! SHIT! MGA PERWISYO! SORRY IYA!*". She insisted that she did not defy Court circulars and other Court issuances regarding the proper handling of court collections. She maintained that she submitted all the required reports to the AD on time as per the registry receipts she mentioned. She prayed that she be given enough time to locate the missing files. However, she is willing to pay and retribute the unaccounted amounts in case she fails to find them.

On March 21, 2018, the Audit Team submitted its Report^[25] which found Rosare guilty of violation of A.C. No. 32-93 as amended by A.C. No. 3-2000 and A.C. No. 50-95, Gross Dishonesty and Malversation of Public Funds or Property, for which grounds it recommends that she be dismissed from service with forfeiture of all benefits except her accrued leave credits, and with prejudice to re-employment in the government service.

Recommendation of the OCA:

In its March 26, 2018 Memorandum^[26], the OCA approved the findings and recommendations of the Audit Team, to wit:

1. The report be DOCKETED as a regular administrative complaint against Ms. Eden P. Rosare, Clerk of Court II, MTC, Labo, Camarines Norte and that she be found GUILTY of violation of Administrative