

## THIRD DIVISION

[ **A.M. No. SCC-15-21-P (Formerly A.M. No. 15-01-01-SCC), December 09, 2020** ]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ANINDING M. ALAUYA, CLERK OF COURT II, SHARI'A CIRCUIT COURT, MOLUNDO-MAGUING-RAMAINBUADIPOSO-BUBONG, MOLUNDO, LANA DEL SUR, RESPONDENT.**

### DECISION

**HERNANDO, J.:**

This administrative matter stemmed from a financial audit report<sup>[1]</sup> of the Financial Audit Team, Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator (OCA), on the books of accounts of Aninding M. Alauya (respondent), Clerk of Court II, Shari'a Circuit Court (SCC), Molundo-Maguing-Ramain-Buadiposo-Bubong, Lanao del Sur, for the period from January 1, 2008 to February 28, 2014.

#### **Factual Antecedents:**

In the December 15, 2014 Memorandum<sup>[2]</sup> for the Court Administrator, the audit team submitted its observations, findings, and recommendation to preventively suspend respondent without pay and to submit his written explanation for the imputed offenses, to wit:

3.a. Removal of office records, financial and case records, from the office and keeping them in their residence;

3.b. Failure to transfer some of the court case records in the office premises despite the audit team's instructions and the memorandum, from the presiding judge;

3.c. Skipping the four (4) [pages of Official Receipts] ORs with serial numbers 11772062 to 11772065 and 11772161 to 11772164 for [Judiciary Development Fund] JDF and [Special Allowance for Judiciary Fund] SAJF, respectively;

3.d. Detaching the three (3) copies (original, duplicate and triplicate) of OR No. 11772165 and the unused original copy of OR No. 11772166 from the booklet;

3.e. Failure to report and remit the collections under OR No. 11772066 and 11772165 in the amount of P180.00 and P820.00, respectively, both dated 4 April 2012;

3.f. Antedating OR Nos. 11772210 and 11772211 for 19 March 2010 and

28 June 2013, respectively, when in fact said series of ORs were previously found unissued as of 4 March 2014, to make it appear that the LRF collections [were] properly receipted;

### 3.g. Non-submission of Monthly Financial Reports.<sup>[3]</sup>

The OCA, in its December 15, 2014 Memorandum,<sup>[4]</sup> adopted the recommendations of the audit team and endorsed the same for approval of the Court. We approved the recommendations of the OCA in Our February 23, 2015 Resolution.<sup>[5]</sup>

In compliance response to Our February 23, 2015 Resolution, respondent submitted the following: (1) Letter-Comment dated April 24, 2015;<sup>[6]</sup> (2) Manifestations dated July 27, 2015;<sup>[7]</sup> (3) Letter dated September 10, 2015;<sup>[8]</sup> and (4) Letter dated April 19, 2016.<sup>[9]</sup>

In his Letter-Comment<sup>[10]</sup> dated April 24, 2015, respondent interposed the following defenses:

Respondent claimed that he brought home various case records for purposes of completion and that this was with the prior knowledge and conformity of Presiding Judge Abdulhalim L. Saumay (Judge Saumay).<sup>[11]</sup> Respondent also denied that he did not comply with the directive to return the case records to the court. He emphasized that he returned the subject case records and placed them inside the court's steel cabinet.

As to the allegations that he skipped four (4) pages of official receipts for the JDF and SAJF, and detached three (3) copies (original, duplicate and triplicate) of Official Receipt (O.R.) No. 11772165, and the unused original copy of O.R. No 11772166 from the booklet, respondent averred that these were due to mere inadvertence on his part.<sup>[12]</sup> He explained that he instructed one of the court personnel to deliver the official receipt booklets for the JDF and SAJF to the office at Molundo, Lanao del Sur.

However, instead of delivering the booklets, said court personnel allegedly detached the official receipts for the JDF and SAJF and inadvertently skipped four (4) pages of official receipts in the JDF and SAJF booklets. The unused original copy of O.R. No. 11772166 was detached from the SAJF booklet, which was delivered by the court personnel to the audit team together with the three (3) copies (original, duplicate and triplicate) of O.R. No. 11772165.<sup>[13]</sup> Ironically, respondent faulted the audit team for allegedly failing to make a proper inventory of official receipts and to notify him about the missing official receipts.

Anent the allegation that respondent failed to report and remit collections, he admitted that there was a delay in the reporting of collections under O.R. Nos. 11772066 and 11772165 but that the collections and remittances under the ORs have already been reported and remitted to the Accounting Division of the OCA.<sup>[14]</sup>

As to the alleged antedating of official receipts, respondent admitted antedating O.R. Nos. 11772210 and 11772211 for March 19, 2010 and June 28, 2013, respectively.<sup>[15]</sup> However, by way of defense,<sup>[15]</sup> he averred that he was forced to

antedate the receipts in order to complete the Legal Research Fund (LRF) issuances considering that the use of official receipts issued by the Supreme Court for the LRF is prohibited.<sup>[16]</sup>

As to his non-submission of monthly financial case reports, respondent argued that it was attributable to the low caseload of the court.<sup>[17]</sup> He later submitted the monthly financial reports of the court covering the period from January 1, 2008 to February 28, 2014, which is the period covered by the audit.<sup>[18]</sup>

Respondent reiterated the foregoing defenses in his Manifestations dated July 27, 2015,<sup>[19]</sup> Letter dated September 10, 2015<sup>[20]</sup> and Letter dated April 19, 2016,<sup>[21]</sup> and raised other additional claims to address the charges against him.

Meanwhile, this Court, in its December 7, 2015 Resolution,<sup>[22]</sup> referred respondent's Manifestations dated July 27, 2015, and Letter dated September 10, 2015 to the OCA for evaluation, report and recommendation.

## **Report and Recommendation of the OCA:**

### **July 5, 2016 Memorandum:**

In its July 5, 2016 Memorandum,<sup>[23]</sup> the OCA found respondent guilty of Gross Neglect of Duty, Dishonesty and Grave Misconduct and recommended his suspension from office for one (1) year without pay "with a stern warning that a repetition of the same or similar infraction shall be dealt with more severely."<sup>[24]</sup> The OCA ratiocinated in this wise:

*First*, respondent could not make up his mind with respect to the charge that he removed office, financial and case records, from the office and kept them in his residence. He initially offered a mere denial but thereafter gave a qualified admission that the bringing of case records to his home was with the consent of Judge Saumay. He again gave another reason in his letter dated 10 September 2015 stating that he took the case records home because there was no electric power at that time in Molundo, Lanao del Sur where his office is stationed and he used his computer at his home in Marawi City to encode the orders. This reason appears to be a mere afterthought and puts into question respondent's credibility.

*Second*, respondent explained that he avoided commenting on the memorandum issued to him by Judge Saumay as required by the audit team because he did not want to have any conflict with Judge Saumay. Further, instead of directly answering the allegation, he cited as an excuse the fact that he wrote the majority of the orders of Judge Saumay per instruction of Judge Saumay. Such failure to comment and his silence on the allegations are detrimental to his cause.

It is the natural instinct of man to resist an unfounded claim or imputation and defend himself. It is totally against our human nature to

just remain reticent and say nothing in the face of false accusations, Hence, silence in such cases is almost always construed as an implied admission of the truth thereof.

*Third*, while respondent admitted that he brought home some of the records albeit with the consent of Judge Saumay, he however did not present any court order to support his claim. This is contrary to Section 14 of Rule 136 of the Rules of Court mandating that "*(n)o record shall be taken from the clerk's office without an order of the court except as otherwise provided by these rules. xxx.*"

*Fourth*, respondent raised the defense that it was a personnel of the court who was responsible for the skipping of four (4) [pages] of official receipts for the JDF and SAJF, and the removal of three (3) copies (original, duplicate and triplicate) of O.R. No. 11772165 and the unused original copy of O.R. No. 11772166.

The finger-pointing deserves scant consideration. For one, respondent did not even name the personnel who was responsible. Secondly, as clerk of court, he is designated as the custodian of the court's funds and revenues, records, properties and premises, and shall be liable for any loss or shortage thereof. Finally, and more importantly, as clerk of court, he is chiefly responsible for the shortcomings of his subordinates to whom administrative functions normally pertaining to them are delegated. Thus, respondent cannot exculpate himself from the anomalies by just passing the blame to another employee.

*Fifth*, with respect to the unremitted collections, a perusal of Annex "C" of respondent's comment will reveal that the report was dated May 11, 2012 while the SAJF and JDF deposit slips were both dated April 5, 2012. Based on these documents, the April 4, 2012 collections amounting to P180.00 and P820.00 under O.R. Nos. 11772666 and 11772165, respectively, were remitted and reported on April 5, 2012 and May 11, 2012, respectively. However, the April 2012 monthly report of JDF and SAJF presented by respondent during the conduct of the audit showed no such transactions. The finding is supported by the JDF and SAJF subsidiary ledgers of the Accounting Division, FMO, OCA, which bear no collection and deposit in the said month. The said ledgers also indicate that the aforesaid transactions were reported only in 2015. Likewise, the date in the machine validation in the JDF and SAJF deposit slips is March 5, 2014 and not April 5, 2012. This gives rise to the conclusion that respondent falsified the date in the deposit slips to make it appear that the collections were remitted and reported in 2012.

*Sixth*, respondent's admission of antedating the official receipts constitutes dishonesty defined as the "(d)isposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud deceive or betray.

*Finally*, with respect to his non-submission of the monthly financial report, respondent's justification *i.e.*, the low caseload of his court, is

patently without merit as paragraph 3 of OCA Circular No. 112-2004 categorically mandates:

3. In case no transaction is made within the month, written notice thereof shall be submitted to the aforesaid Office **no later than the 10<sup>th</sup> day of the succeeding month.**

xxxx

In the present case, dismissal from the service may be too harsh considering the following circumstances, to wit: (1) this is respondent's first infraction after nineteen (19) years of service in the judiciary; and (2) he remitted, albeit belatedly, the total amount of his shortages before the complaint against him was filed. xxx<sup>[25]</sup> (Emphases in the original)

In view of the foregoing findings, the OCA, in its July 5, 2016 Memorandum, submitted the following recommendations to the Court:

1. respondent Aninding Alauya, Clerk of Court II, SCC, MolundoMaguing-Ramain-Buadiposo-Bubong, Molundo, Lanao del Sur, be found **GUILTY** of gross neglect of duty, dishonesty and grave misconduct; and

2. respondent Alauya be **SUSPENDED** for one (1) year without pay with a **STERN WARNING** that a repetition of the same or similar infraction shall be dealt with more severely.<sup>[26]</sup>

Meanwhile, this Court received respondent's Letters dated April 19, 2016<sup>[27]</sup> and February 2, 2017<sup>[28]</sup> relative to the instant administrative case against him. The Court also received a copy of a letter-complaint dated September 1, 2016 against respondent from various court personnel<sup>[29]</sup> from SCC Molondo, Lanao del Sur.

In a July 24, 2017 Resolution, this Court referred the letters to the OCA for evaluation, report and recommendation.

**November 17,  
2017  
Memorandum:**

In compliance with the July 24, 2017 Resolution of the Court, the OCA issued a Memorandum<sup>[30]</sup> dated November 17, 2017 finding that respondent's letters did not warrant any modification of the recommendations earlier cited in its July 5, 2016 Memorandum, thus:

The allegations deserve scant consideration.

*First*, while respondent harmonized his two (2) conflicting reasons in bringing home the case records, *i.e.*, to help write lacking orders on motions filed and on interlocutory matters, because of the inability of their Presiding Judge to write in the English language and due to the lack then of electric power in their office, the fact remains that there was no court order to support his claim contrary to Section 14 of Rule 136 of the Rules of Court.