

EN BANC

[A.M. No. 11-6-60-MTCC, June 18, 2019]

RE: NON-SUBMISSION OF MONTHLY FINANCIAL REPORTS OF MS. ERLINDA P. PATIAG, CLERK OF COURT, MUNICIPAL TRIAL COURT IN CITIES, GAPAN CITY, NUEVA ECIJA,

[A.M. No. P-13-3122 (Formerly A.M. No. 12-9-71-MTCC {Report on the Financial Audit Conducted at the Municipal Trial Court in Cities, Gapan City, Nueva Ecija}), June 18, 2019]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V. CLERK OF COURT IV ERLINDA P. PATIAG, MUNICIPAL TRIAL COURT IN CITIES, GAPAN CITY, NUEVA ECIJA, RESPONDENT.

PER CURIAM:

Before this Court are two consolidated administrative cases against respondent Erlinda P. Patiag (Patiag), Clerk of Court IV of the Municipal Trial Court in Cities (MTCC), Gapan City, Nueva Ecija. A.M. No. 11-6-60-MTCC pertains to respondent's failure to submit the monthly financial reports of collections for the judiciary funds, while A.M. No. P-13-3122 is the result of the financial audit conducted by the Office of the Court Administrator (OCA) on the books of account of the respondent.

The Case and the Facts

A.M. No. 11-6-60-MTCC

In a Letter^[1] dated April 14, 2008, the OCA directed Patiag to show cause why her salary should not be withheld for her failure to submit the monthly financial reports for the following: (1) Judiciary Development Fund (JDF) for the months of May to December 2007 and January 2008 up to the present; (2) the Special Allowance for the Judiciary Fund (SAJF) for the months of May 2007 up to the present; (3) the Fiduciary Fund (FF) for the months of November to December 2006, January 2007, and March 2007 up to the present; and (4) the Sheriff's Trust Fund (STF) for the months of October 2006 up to the present.

Patiag failed to comply despite several warnings and follow-up communications sent by the OCA. Her non-compliance even resulted in the withholding of her salaries, allowances, and other monetary benefits.^[2]

A.M. No. P-13-3122

Patiag's failure to submit the required monthly reports despite several directives prompted the Court to direct the OCA to constitute an audit team to investigate her books of account. In its report^[3] dated September 12, 2012, the audit team found that Patiag had been remiss in her performance of her duties and that there were massive shortages in the court's funds. According to the audit team:

1. Patiag was not depositing her collections on time. The examination of the records revealed a huge discrepancy of the amount that should be in Patiag's possession;^[4]
2. A total of 940 booklets of original receipts were issued by the Court since 1985 but eight (8) booklets^[5] that were recorded and reported in the monthly reports used for JDF and SAJF collections were missing. The audit team also discovered material discrepancies on the accounts between entries in the cashbooks and the actual collections appearing in the copies of the triplicate original receipts;
3. There were questionable withdrawals amounting to P1,020,000.00 which were lacking supporting documents authorizing the refund, with blank vouchers bearing only the signatures of the claimants;
4. The audit team discovered the practice of the court of not remitting the collections on time. There was an instance wherein JDF collections for the month of February 1991 was remitted only on June 6, 1995, or four (4) years and four (4) months of delay. Records showed that delayed remittance of

collections has been the practice until the financial audit team discovered it during the audit engagement.^[6]

Based on the available documents, the audit yielded the following schedule of shortages incurred for each fund according to the audit period covered:

Particulars	JDF	SAJF	Gen. Fund	Mediation	LRF	VCF
Period Covered	03/1985 to 02/29/2012	11/11/03 to 02/29/12	10/03/97 to 02/29/12	11/05/04 to 02/29/12	09/19[97] to 02/29/12	11/03/97 to 02/29/12
Total Collection	1,416,493.30	1,314,361.70	199,572.60	163,555.00	29,226.64	10,100.00
Less: Total Remittance	823,439.86	105,223.52	445,037.60	153,555.00	17,172.96	7,655.00
UNDER (OVER) DEPOSIT	593,053.44	1,209,138.18	(245,465.00)	10,000.00	12,053.68	2,445.00
Less: Erroneous Remittance of SAJF collection to GF account >Nov. 10, 2003 to July 8, 2004	-	(9,405.00)	9,405.00	-	-	-
>Aug. 2004 to June 2006	-	(231,060.00)	231,060.00	-	-	-
Balance of Accountability	593,053.44	968,673.18	(5,000.00)	10,000.00	12,053.68	2,445.00
FINAL ACCOUNTABILITY AS OF FEBRUARY 29, 2012						1,581,225.30

The team gave Patiag the opportunity to explain her side but the latter opted not to explain. During the audit team's exit conference with Presiding Judge John Voltaire C. Venturina, Patiag offered no explanation but promised to reconstitute the cash shortages she incurred.

Meanwhile, on March 30, 2012, Patiag made partial restitution for the FF and STF in the amounts of P518,000.00 and P9,000.00, respectively.^[7] On April 3, 2012, Patiag restituted the shortages incurred in the MF, Legal Research Fund and Victim's Compensation Fund amounting to P10,000.00, P12,053.68 and P2,445.00, respectively.^[8] As of this date, no restitution was made for the shortages incurred in the JDF and SAJF amounting to P593,053.44 and P968,673.18, respectively.

The Court, in a Resolution^[9] dated June 13, 2013, adopted the recommendations submitted by the OCA, as follows:

x x x

(3) to DIRECT Clerk of Court IV Erlinda T. Patiag, within ten (10) days from notice: (3.a) to RESTITUTE the remaining shortages incurred totaling P1,561,726.62, broken down as follows:

FUND	PERIOD COVERED	AMOUNT
Judiciary Development Fund	03/01/85 to 02/29/12	593,053.44
Special Allowance for the Judiciary	11/11/03 to 02/29/12	968,673.18
Balance of Accountability		1,561,726.62

(3.b) to PAY and DEPOSIT to the Judiciary Development Fund (JDF) the total amount of Fifty-Two Thousand Nine Hundred Sixty-Four Pesos and Forty-Seven Centavos (P52,964.47), representing the interest earned, computed using the legal rate of six (6%) percent per annum for not remitting the collections of the following funds on time, to wit:

x x x

(3.c) to EXPLAIN the following discrepancies noted in the reporting of collections under JDF and SAJF accounts, to wit:

x x x

(3.d) to EXPLAIN the following DELAYED Remittances stated in the schedules attached as summarized below, to wit:

x x x

(3.e) to SUBMIT the missing EIGHT (8) booklets of triplicate official receipts with series numbers

x x x

(4) to PLACE Ms. Erlinda T. Patiag under preventive SUSPENSION EFFECTIVE IMMEDIATELY, until the resolution of this administrative matter, and is FINED in the amount of Five Thousand Pesos (P5,000.00) for failure to deposit her collections on time thereby depriving the government of supposed interests earned from the said collections;

(5) to DIRECT Mr. Ernesto M. Aisporna, Junior Process Server, Municipal Trial Court in Cities, Gapan City, Nueva Ecija to LIQUIDATE the cash advances he made totaling P183,400.00, which comprises of:

x x x

(6) to DIRECT Mr. Ernesto Mendoza, Sheriff IV, Regional Trial Court, Gapan City, Nueva Ecija to LIQUIDATE the cash advances he made totaling Ten Thousand Pesos (P10,000.00), to wit:

x x x

(7) to DESIGNATE Ms. Helen J. Pineda, Court Stenographer I, as Accountable Officer of the Municipal Trial Court in Cities, Gapan City, Nueva Ecija, and is DIRECTED to STRICTLY ADHERE with the guidelines and Circulars issued by this Court with regard to the proper handling of judiciary funds; and

(8) to DIRECT Hon. John Voltaire C. Venturina, Presiding Judge of the Municipal Trial Court in Cities, Gapan City, Nueva Ecija, to STRICTLY MONITOR the financial transactions of the court to AVOID the repetition of the same infractions committed by employees under his supervision.

Eventually, Patiag submitted a Motion for Reconsideration^[10] dated November 18, 2013. In her motion, Patiag enumerated the reasons for the huge shortages she incurred as follows: (a) there was no inventory conducted during the turnover of financial records from the former clerk of court to her, hence, all shortages of her predecessor was passed on to her; and (b) the subsequent relocation and transfer of the court to different buildings in 2006 and 2009 caused the loss of boxes of receipts and ledgers of financial records which contributed to the shortages in the judiciary collections. Patiag is also asking for a re-audit of her financial shortages. She also requested that her financial accountabilities be deducted from her withheld salaries and allowances and to allow her to use whatever portion will be left.

Meanwhile, in a Letter^[11] dated January 21, 2014, Patiag submitted the financial reports for the judiciary funds and the missing eight (8) booklets of Official Receipts.

In a Resolution^[12] dated March 12, 2014, the Court resolved to consolidate these administrative cases.

Meanwhile, upon examination of the missing eight (8) booklets, a shortage of P621.20 was disclosed. Subsequent examinations on the books of accounts of Patiag also revealed an additional cash shortage of P2,000.00 in the MF. Thus, the OCA re-evaluated the case and re-assessed Patiag's liability to include the said shortages.

The Report and Recommendation of the OCA

In its Memorandum^[13] dated September 13, 2017, the OCA summarized Patiag's cash accountability to One Million Six Hundred Seventeen Thousand Three Hundred Twelve Pesos and 29/100 (P1,617,312.29) as follows:

FUND	Period Covered	Balance of Accountability
Judiciary Development Fund (JDF)	March, 1985 to 29 February 2012	PHP 593,053.44

Special Allowance for the Judiciary Fund (SAJF)	11 November 2003 to 29 February 2012	968,673.18
Mediation Fund (MF)	1 to 18 March 2012	2,000.00
UNEARNED Interest due to delayed remittances		52,964.47
After submission of the missing eight (8) O.R. booklets	Additional JDF Shortage	621.20
TOTAL ACCOUNTABILITY		PHP 1,617,312.29

The OCA held that the documents and records which respondent alleged as lost and missing during their transfer of office in the years 2006 and 2009 were found by the audit team, except for the said eight (8) booklets that were later on found in her possession. Likewise, respondent's assertion that she inherited the shortages from her predecessor is unacceptable since the subject of the audit was solely on her accountability period from March 1985 to February 29, 2012 until the period of March 1 to 18, 2012 based on her submitted documents.

In the Court's Resolution^[14] dated November 20, 2017, the Court adopted the recommendation of the OCA and resolved, among others, to: (a) clear Sheriff IV Ernesto Mendoza from his cash accountabilities; (b) drop his name as respondent in A.M. P-13-3122; and (c) consider the same closed and terminated as to him by reason of his full compliance with the directive in the Resolution dated June 13, 2013 which directed him to liquidate the cash advances he made totaling Ten Thousand Pesos (P10,000.00).

The Issue

The only issue in this case is whether or not respondent Patiag should be held administratively liable.

The Ruling of the Court

The Court agrees and adopts the findings and recommendation of the OCA.

Time and again, the Court emphasized that Clerks of Courts perform a delicate function as designated custodians of the court's funds, revenues, records, properties and premises. As such, they 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^[15] and 113-2004^[16] 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.^[17]

In the same vein, Administrative Circular No. 3-2000,^[18] commands that all fiduciary collections shall be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized government depository bank. Supreme Court Circular No. 13-92 directs that all fiduciary collections be deposited immediately by the Clerk of Court concerned, upon receipt thereof, with an authorized depository bank while SC Circular No. 5-93 provides that the Land Bank of the Philippines is designated as the authorized government depository.^[19]

From the foregoing, it is evident that the respondent showed carelessness or indifference in the performance of her duties. The record showed that aside from her lame excuses, she offered no veritable explanation nor satisfactory reason to support the shortages that she incurred. Her failure to comply with the aforementioned Court Circulars and other relevant rules designed to promote full accountability for public funds, as well as her failure to manage and properly document the cash collections allocated for the various court funds, constitute serious dishonesty, grave misconduct and serious neglect of duty which undermine the public's faith in courts and in the administration of justice as a whole, and render her unfit for the position of clerk of court.^[20] Respondent's willingness to pay her shortages will not absolve her from the consequences of her wrongdoing.

Meanwhile, the fact that Patiag reached the compulsory retirement age on May 13, 2014,^[21] did not render these cases moot, let alone release her from whatever liability she had incurred while in active service. Since the penalty of dismissal from the service is no longer imposable, a fine can be imposed instead, and its amount is subject to the sound discretion of the Court.^[22] Section 51(d)^[23] of Rule X of the Revised Uniform Rules on Administrative Cases in the Civil Service provides that fine as a penalty shall be in an amount not exceeding the salary for six months of the respondent. Thus, a fine equivalent to Patiag's salary for her last six months in the service to be deducted from whatever accrued leave benefits remained for her is deemed in order, but with accessory penalties of dismissal from service, *i.e.*, forfeiture of all