

EN BANC

[A.M. No. P-11-2959, February 06, 2018]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ALMA P. LICAY, CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL
COURT, SAN JUAN-SAN GABRIEL, LA UNION, RESPONDENT.**

[A.M. No. P-14-3230]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ALMA P. LICAY, CLERK OF COURT, MUNICIPAL CIRCUIT TRIAL
COURT, SAN JUAN, LA UNION, RESPONDENT.**

D E C I S I O N

PER CURIAM:

A.M. No. P-14-3230 stemmed from the continuous failure of respondent Alma P. Licay (Licay), Clerk of Court, to comply with the regular submission of the Monthly Financial Reports of the Municipal Circuit Trial Court of San Juan, La Union, while A.M. No. P-11-2959 arose from the shortages in the judiciary collections and undocumented withdrawal of cash bonds.

In its Resolution dated 10 July 2017,^[1] the Court consolidated A.M. No. P-14-3230 with A.M. No. P-11-2959 from the First Division, upon the recommendation of the Office of the Court Administrator (OCA) in its 1 March 2017 Memorandum which stated that the audit team who conducted the examination of the books of accounts of the Municipal Circuit Trial Court, San Juan-San Gabriel, La Union had already submitted to the Court their financial audit in A.M. No. P-11-2959 on 21 June 2011.

A.M. No. P-14-3230

In its Memorandum dated 10 May 2011,^[2] the OCA reported that the Financial Management Office (FMO) of the OCA found that Licay failed to regularly submit her Monthly Financial Reports.

The OCA stated that on 27 February 2007, the FMO, OCA sent a letter^[3] to Licay requiring her to submit the Monthly Financial Reports for (1) the Judiciary Development Fund (JDF) from July 2006, (2) the Special Allowance for the Judiciary (SAJ) from July 2006, (3) the Fiduciary Fund (FF) from May 2006, and (4) the Sheriff's Trust Fund (STF).

The OCA sent another letter^[4] to Licay on 6 July 2007. The letter required her to show cause within a non-extendible period of five (5) days from notice why her salaries should not be withheld for failure to comply with the rules on the submission of the Monthly Financial Reports.

In August 2007, the FMO received from Licay a partial compliance for the mentioned periods up to February 2007.

Another letter was sent again to Licay reminding her to submit the other unsubmitted reports but Licay failed to do so.

The FMO sent a final letter^[5] to Licay on 17 October 2007 reminding her to submit the other reports she did not submit: (1) the JDF from March 2007, (2) the SAJ for the months of December 2006 and March 2007, (3) the FF from March 2007 and (4) the STF. However, she failed to submit the reports as ordered.

In a Memorandum dated 17 January 2008,^[6] then Chief Justice Reynato S. Puno approved the request of the FMO that the salaries of Licay be withheld due to her continuous non-submission of the required Monthly Financial Reports.

The FMO was likewise prompted to conduct a financial audit of the books of account of the Municipal Circuit Trial Court of San Juan-San Gabriel, La Union. The financial audit is the subject of A.M. No. P-11-2959.

In its Resolution dated 15 June 2011,^[7] the Court directed Licay to explain in writing why she should not be administratively dealt with for the non-submission of her Monthly Financial Reports and to submit said reports both within ten (10) days from notice.

In its Resolution dated 14 December 2011^[8] the Court required Licay to show cause why she should not be disciplinarily dealt with or held in contempt for her failure to give an explanation on her non-submission of the Monthly Financial Reports and on her failure to submit the reports required in the 15 June 2011 Resolution.

In its 13 February 2013 Resolution,^[9] the Court resolved to impose a fine on Licay due to her failure to comply with the show cause Resolution dated 14 December 2011. The Resolution fined Licay Five Hundred Pesos (P500.00) and ordered her to comply with the Resolutions dated 15 June 2011 and 14 December 2011, within ten (10) days from notice.

In its 23 October 2013 Resolution,^[10] the Court imposed on Licay an additional fine of Five Hundred Pesos (P500.00) for failure to comply with the 13 February 2013 Resolution. Again, Licay was required to comply with the Resolution dated 15 June 2011 by submitting the required Monthly Financial Reports, also within ten (10) days from notice.

Licay paid the fine of One Thousand Pesos (P1,000.00), under Official Receipt No. 1513547B dated 9 December 2013. However, the 23 January 2014 Certification from the Accounting Division of the FMO showed that Licay had not submitted the following Monthly Financial Reports: (1) JDF for the months of July 2007 to December 2010, (2) SAJ for the months of July 2007 to December 2010, (3) FF for the months of July 2007 to December 2010, (4) STF from her date of assumption to December 2010 and (5) General Fund for the first quarter of 2009 to the fourth quarter of 2010.^[11]

In its 7 April 2014 Memorandum, the OCA recommended the following:

a) the administrative complaint be RE-DOCKETED as a regular administrative case against respondent Clerk of Court Alma P. Licay, Municipal Circuit Trial Court, San Juan, La Union;

b) respondent Clerk of Court Licay be found LIABLE for Gross Insubordination and Refusal to Perform Official Duty and be SUSPENDED from office for one (1) year effective immediately, with a STERN WARNING that a repetition of the same or similar offense shall be dealt with more severely;

c) to IMPOSE on respondent Clerk of Court Licay a FINE of Five Thousand Pesos (Php 5,000.00) payable to the Court within ten (10) days from notice or a penalty of imprisonment of ten (10) days if such fine is not paid within the prescribed period, for her deliberate and continuous failure and refusal to comply with the Resolutions dated 15 June 2011, 14 December 2011, 13 February 2013 and 23 October 2013 of the Court; and

d) Clerk of Court Licay be REQUIRED anew to COMPLY with the Resolutions dated 15 June 2011 and 14 December 2011 by submitting to the Court the required Monthly Financial Reports and explanation for such failure, both within a non-extendible period often (10) days from notice.^[12]

The OCA stated in the Memorandum that:

x x x [T]he Court has already given Clerk of Court Licay more than enough opportunity to explain her side. With her obstinate defiance and incessant refusal to submit her compliance to the Court despite the latter's repeated directives and stern admonitions, she displayed her insolence and disrespect for the lawful orders of the Court. A resolution of the Supreme Court should not be construed as a mere request, and should be complied with promptly and completely. Such failure to comply betrays not only a recalcitrant streak in character, but also a disrespect for the Court's lawful order and directive. Furthermore, this contumacious conduct of refusing to abide by the lawful directives issued by the Court has likewise been considered an utter lack of interest to remain with, if not contempt of, the system. Her transgression is highlighted even more by the fact that she is an employee of the Judiciary. More than an ordinary citizen, she should be aware of her duty to obey the orders and processes of the Supreme Court without delay. Her willful disobedience to and disregard for the directive of this Court constitute grave and serious misconduct which cannot be tolerated.

Insubordination or unwillingness to submit to authority and refusal to perform official duty are glaring in the actuations of Clerk of Court Licay. They are grave offenses with the corresponding penalty of suspension of six (6) months and one (1) day to one (1) year. The Revised Rules on Administrative Cases in the Civil Service is instructive. If the respondent

is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered aggravating circumstances. Moreover, the maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present. Thus, as insubordination and refusal to perform official duty are both grave offenses, the latter shall be considered as aggravating to impose the maximum penalty of suspension of one year.^[13]

In its 7 July 2014 Resolution,^[14] the Court redocketed the case as a regular administrative complaint against Licay.

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In its Memorandum dated 28 April 2011,^[15] the audit team, after conducting an examination of the books of account of the Municipal Circuit Trial Court, San Juan-San Gabriel, La Union, found that Licay incurred shortages in the judiciary collections.

In its Resolution dated 25 July 2011,^[16] the Court, upon the recommendation of the OCA, resolved as follows:

(1) x x x.

(2) to DOCKET the report as a regular administrative complaint against Mrs. Alma P. Licay, Clerk of Court II, Municipal Circuit Trial Court, San Juan-San Gabriel, La Union for appropriating for personal use her judiciary collections for the period March 2007 to July 2009 and for violation of OCA Circular No. 13-92, Circular No. 50-95, and other existing rules and regulations relevant to the handling of judiciary funds;

(3) to SUSPEND Mrs. Alma P. Licay from office for six (6) months without pay effective upon notice hereof, and to impose on her a FINE in the amount of Five Thousand Pesos (P5,000.00) for the delayed remittances of her judiciary collections for the period March 2007 to July 2009, payable to this Court within ten (10) days from notice; (4) to DIRECT Mrs. Alma P. Licay:

(4.a) to RESTITUTE within fifteen (15) days from notice the following shortages by depositing the computed amounts to their respective savings accounts, to wit:

FUND	SAVINGS ACCOUNT NO.	AMOUNT	
General Fund		P	637.00
Judiciary Development Fund (JDF)	0591-0116-34		
Mediation Fund (MF)	3472-1000-08		1,000.00
Fiduciary Fund (FF)	1391-0015-41		2,376.18

TOTAL		P	4,207.38
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(4.b) to SUBMIT within fifteen (15) days from notice copies of machine validated deposit slips or Land Bank of the Philippines certification showing that the computed shortages above had been deposited to their respective accounts;

(4.c) to REQUEST from the Land Bank of the Philippines a snap shot or bank statement of the court's Fiduciary Savings Account No. 1391-0015-41 covering the period 01 January 2005 to 30 September 2005 and to SUBMIT the said snap shot or bank statement to the Fiscal Monitoring Division, Court Management Office, Office of the Court Administrator, for examination, both within fifteen (15) days from notice hereof; and

(4.d) to SUBMIT within fifteen (15) days from notice valid documents, e.g., court orders, acknowledgment receipts, etc., and to SURRENDER the original copy/ies of official receipt/s to support the withdrawals of the attached List of Undocumented Withdrawn Cash Bonds (Schedule 1) amounting to P872,175.00; otherwise, to RESTITUTE the same;

x x x x^[17]

In a Certification dated 13 October 2011,^[18] the Cash Division, SC OCA certified that Licay has paid P5,000.00 as fine.

In a Letter dated 19 October 2011,^[19] Licay appealed for an extension for the submission of the required documents in the Resolution of 25 July 2011. In another Letter bearing the same date, Licay stated that she was submitting the documents required in paragraphs 4.b and 4.c of the Resolution. She attached orders and acknowledgment receipts to the Letter.

In its 21 November 2011 Resolution,^[20] the Court noted Licay's payment of the fine and her Letter submitting documents relative to paragraph 4.d of the 25 July 2011 Resolution. The Court granted her another 15 days to comply with the 25 July 2011 Resolution.

In a Letter dated 17 November 2011,^[21] Licay stated that she was submitting official receipts, orders, and acknowledgment receipts as partial compliance with the 25 July 2011 Resolution. In its 15 February 2012 Resolution, the Court noted the Letter.

In its 14 November 2012 Resolution,^[22] the Court noted the certification dated 16 April 2012 of Presiding Judge Alan M. Ordono, Municipal Circuit Trial Court, San Juan-San Gabriel, La Union, stating that Licay has reassumed her duties and responsibilities as Clerk of Court II effective 16 April 2012 after having served her six months suspension which took effect on 5 October 2011 pursuant to the Resolution of 25 July 2011.

In its 18 February 2013 Resolution,^[23] the Court resolved to await Licay's full compliance with the Resolution of 25 July 2011.