

EN BANC

[**A.M. No. P-18-3841 (Formerly A.M. No. 01-12-323-MTC), September 18, 2018**]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, V.
DAHLIA E. BORROMELO, CLERK OF COURT II, MUNICIPAL TRIAL
COURT IN CITIES [MTCC], BIÑAN, LAGUNA, RESPONDENT.**

DECISION

PER CURIAM:

A clerk of court is the designated custodian of the funds, revenues, properties and premises of the court she serves. She must faithfully perform her duties and responsibilities as such; otherwise, she may be dismissed from the service for gross dishonesty, or grave misconduct, or gross neglect of duty.

This administrative matter stemmed from findings of shortages and unexplained missing funds resulting from the financial audit conducted on the books and accounts of the Municipal Trial Court in Cities (MTCC) of Biñan City in Laguna to determine the final accountabilities of respondent Clerk of Court II Dahlia E. Borromeo.

The relevant antecedents follow.

Pursuant to the resolution promulgated on July 26, 2001 in A.M. No. 01-4-134-MTC, the Court Administrator organized an audit team, and directed the Financial Management Office (FMO) to withhold all the salaries and allowances of the respondent following her failure, despite repeated demands, to submit the records required for the examination of her books of accounts to the Fiscal Monitoring Division of the Court Management Office (FMD CMO) in the Office of the Court Administrator (OCA).^[1]

The initial audit conducted on the cash and accounts of the MTCC during the period from August 10, 2001 to August 14, 2001 resulted in the following observations and findings, to wit:

A. JUDICIARY DEVELOPMENT FUND

Period Covered: 1 April 1995 to 31
August 2001

Total Collections	P719,450.20
Less: Total	<u>381,935.90</u>
Deposits/Remittances	<u>P337,514.30</u>
Balance of Accountabilities/Shortages	

B. CLERK OF COURT GENERAL FUND

Period Covered: 1 August 1994 to 31

August 2001

Total Collections		P
Less: Total	625,776.65	
Deposits/Remittances	<u>360,258.15</u>	
Balance of		P
Accountabilities/Shortages	<u>265,518.50</u>	

The general observations of the team who conducted the financial audit were as follows:

1. Records and accounting control are in disarray. Ms. Borrromeo has no procedure at all in the manner of filing system, accounting system and delegation of work;
2. Official Receipts requisitioned from the Supreme Court are properly issued on legal fees collections. However, two (2) booklets of Official Receipts with Serial Nos. 5710301-350 and 5710351-400 issued for Fiduciary Collections are missing. Collections on Judiciary Development Fund, Clerk of Court General Fund and Fiduciary Fund for the period 21 June 2001 to the present, 30 June 2001 to the present and 1 May 2001 to the present, respectively are not recorded in their respective Official cashbooks;
3. The last Monthly Report of Collections and Deposits/Withdrawals submitted by Ms. Borrromeo to the Accounting Division, this Office, on Judiciary Development Fund, Clerk of Court General Fund and Fiduciary Fund was for the months of August 1999, June 1999 and May 1999 only;
4. Ms. Borrromeo failed to remit her collections on Judiciary Development Fund for the period covering October 1999 to August 2001 (collections for a period of 1 year and 11 months) amounting to Three Hundred Thirty Seven Thousand Five Hundred Fourteen Pesos and 30/100 Centavos (P337,514.30). Furthermore, most of the collections prior to October 1999 were not remitted on time in violation of Administrative Circular No. 3-2000 dated 15 June 2001;
5. Ms. Borrromeo in like manner failed to remit her collections on Clerk of Court General Fund for the period covering November 1999 to August 2001 (collections for a period of 1 year and 10 months) amounting to Two Hundred Sixty Five Thousand Five Hundred Eighteen Pesos and 50/100 Centavos (P265,518.50). Furthermore, most of the collections prior to November 1999 were also not remitted on time in violation of the Commission on Audit (COA) and Department of Finance (DOF) Joint Circular 1-81;
6. Collections on Fiduciary Fund were not deposited for safekeeping in the Land Bank of the Philippines (LBP) pursuant to the guidelines set forth in Administrative Circular No. 50-95 dated 11 October 1995. On 5 July 2000, she made a deposit under LBP Savings Account No. 2381-0002-25 in the amount of Twenty Six Thousand Pesos (P26,000.00). All subsequent fiduciary fund collections were held on hand except for the last deposit made on 9 August 2001 in the amount of Five Thousand

Pesos (P5,000.00) but withdrawals from the bank continued until August 2001, showing irregular transactions conducted under this account; and

7. Ms. Borrromeo allowed Ms. Cecil Reyes, her purported private secretary, to perform the duties and responsibilities of a regular court employee.^[2]

As a result, the Court resolved on February 18, 2002 to:

(a) **DIRECT** Clerk of Court Dahlia E. Borrromeo to: (1) **EXPLAIN** within ten (10) days from notice why no administrative sanction shall be imposed upon her for her failure to: (aa) remit all collection for the period covering October 1999 to August 2001 on the Judiciary Development Fund and on CoC General Fund for the period covering November 1999 to August 2001; (bb) record daily transactions in the official cashbooks; (cc) submit the monthly reports of collections and deposits/withdrawals for all funds to the Accounting Division, Office of the Court Administrator from the mid of 1999 to present; (dd) deposit all fiduciary fund collections with the Land Bank of the Philippines; and (ee) follow the circulars issued by the Court in the manner of handling judiciary funds; (2) **RESTITUTE** within ten (10) days from notice, the shortages on JDF and CoC General Fund in the amount of Three Hundred Thirty Seven Thousand Five Hundred Fourteen Pesos and 30/100 Centavos (P337,514.30) and Two Hundred Sixty Five Thousand Five Hundred Eighteen Pesos and 50/100 Centavos (P265,518.50), respectively; (3) **EXPLAIN** why she is allowing Ms. Cecil Reyes, who is not an employee of the court to have access to the records of the court and to perform the regular functions of a court employee; and (4) **PRODUCE** all Fiduciary Fund records from July 1995 to present, i.e., Monthly Reports of Collections and Deposits/Withdrawals, Cashbooks, all Bank Passbooks [PNB, LBP or Rural Bank] and two (2) unaccounted booklets of OR No. 5710301-350 and 5710351-400;

(b) **SUSPEND** Ms. Dahlia E. Borrromeo from office until she has complied with all the above directives; and

(c) **DIRECT** Judge Alden V. Cervantes, Presiding Judge, MTC, Biñan, Laguna to: (1) **DESIGNATE** an Acting Clerk of Court during the period of suspension of Mrs. Borrromeo; and (2) **MONITOR** the designated Officer-in-Charge to safeguard the judiciary funds to avoid similar infractions in the future.

x x x x^[3]

Following her preventive suspension as directed via the February 18, 2002 resolution, the respondent submitted her explanation through her letter dated February 25, 2002.^[4] On March 5, 2002, she also presented her *Supplemental Motion for Reconsideration* dated March 4, 2002^[5] asking for the lifting of her suspension.

On April 1, 2002, the Court referred the matter to the OCA for evaluation, report and recommendation.^[6]

On June 17, 2002, the Court promulgated its resolution to:

- (a) *HOLD in ABEYANCE the final resolution of this administrative matter pending compliance of Ms. Dahlia E. Borrromeo, Clerk of Court, MTC, Biñan, Laguna, of all the directives in this administrative matter;*
- (b) *DIRECT Judge Alden V. Cervantes, Presiding Judge, MTC, Biñan, Laguna, to ALLOW MY. Dahlia E. Borrromeo to have access to all records and relevant papers pertaining to all collections on Judiciary Development Fund, CoC General Fund and Fiduciary Fund during her incumbency as CoC/Accountable Officer, provided that she be accompanied by a trusted court employee to avoid suspicion of tampering of court records;*
- (c) *GRANT Ms. Borrromeo a period of thirty (30) days from notice hereof to fully comply with the resolution of February 18, 2002; and*
- (d) *DENY the request of Ms. Borrromeo for the lifting of her suspension order and the release of her salaries and other benefits.*^[7]

On July 29, 2002, the respondent manifested her partial compliance with the resolution of February 18, 2002 directing her, among others, "to submit monthly reports of collections and deposits/withdrawals for all funds to the Accounting Division, from the middle of 1999 to present." She also requested an extension of 60 days to comply with all the other directives.^[8]

On January 15, 2003, the Court noted the respondent's letter of July 29, 2002, and granted her request for an additional 60 days within which to comply with the resolution of February 18, 2002 in view of the reasons she had stated therein. ^[9]

However, the respondent's continued non-compliance with the directives of the Court in the February 18, 2002 resolution prompted the Court to order the conduct of the financial audit subject of this administrative matter.

The results of the financial audit showed that the respondent had incurred the following accountabilities and shortages,^[10] to wit:

FUND/ACCOUNT NAME	PERIOD/S AUDITED	BALANCE OF ACCOUNTABILITY-SHORTAGE/ (OVERAGE)
Fiduciary Fund	5 July 1995 to 31 January 2002	P2,869,873.49
Judiciary Development Fund	1 April 1995 to 31 August 2001	337,514.30

General Fund (Old)	1 August 1994 to 31 August 2001	265,518.50
Judiciary Development Fund	1 September 2001 to 31 January 2002	Not established due to unavailability of vital documents
General Fund (Old)	1 September 2001 to 31 January 2002	Not established due to unavailability of vital documents

On February 3, 2015, the OCA issued a memorandum,^[11] recommending therein the following:

1. This report be **RE-DOCKETED** as a regular administrative complaint against Ms. Dahlia E. Borromeo, Clerk of Court II, MTCC, Biñan, Laguna and that Ms. Dahlia E. Borromeo be found **GUILTY** of violation of Administrative Circular No. 32-93 (Re: Collection of Legal Fees and Submission of Monthly Report of Collections) as amended by Administrative Circular No. 3-2000 and Administrative Circular 50-95, gross dishonesty and malversation of public funds (*Articles 217, Revised Penal Code*) and be **DISMISSED** from the service effective immediately, with forfeiture of all retirement benefits except her accrued leave credits, and with prejudice to re-employment in any branch or service of the government, including government-owned or controlled corporations;
2. The position of Ms. Dahlia E. Borromeo as Clerk of Court II, MTCC, Biñan, Laguna be **DECLARED VACANT**;
3. The OAS, OCA be **DIRECTED** to provide the FMO, OCA with the following documents pertaining to Ms. Dahlia E. Borromeo:
 - [3.1] Official Service Record;
 - [3.2] Certification of Leave Credits; and
 - [3.3] Notice of Salary Adjustment (NOSA) if any;
4. The FMO, OCA be **DIRECTED** to:
 - 4.1) **PROCESS** the money value of the terminal leave benefits of Ms. Dahlia E. Borromeo and that of her withheld salaries, bonuses and other benefits, if any, dispensing with the usual documentary requirements, and apply the same to the shortages in the following order:

Name of Fund	Period Covered	Amount
<i>Fiduciary Fund</i>	<i>5 July 1995 to 31</i>	<i>P</i> 2,869,873.49