

EN BANC

[A.M. No. P-10-2840 (Formerly A.M. No. 10-7-87-MTC), June 23, 2015]

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. MS. FLORED L. NICOLAS, FORMER COURT INTERPRETER AND OFFICER-IN-CHARGE; MS. ERLINDA U. CABRERA, FORMER CLERK OF COURT II; AND MR. EDWIN SANTOS, CLERK OF COURT II, ALL OF THE MUNICIPAL TRIAL COURT, GUIGUINTO, BULACAN, RESPONDENTS.

DECISION

PER CURIAM:

Sometime in 2004, a financial audit was conducted on the books of accounts of the Municipal Trial Court of Guiguinto, Bulacan (Guiguinto MTC) covering the period March 1985 to July 31, 2004 under then Clerk of Court II Erlinda U. Cabrera. The 2004 audit revealed that Cabrera incurred shortages amounting to P1,483,351.85 which served as the basis of the administrative cases^[1] filed against her docketed as A.M. Nos. P-05-2027 and P-05-2028.

To prevent further dissipation of court funds, Cabrera was relieved from her duty as collecting officer. Pending the resolution of Cabrera's administrative cases, Court Interpreter Flored L. Nicolas was appointed as Officer-in-Charge (OIC) and was designated to handle the financial transactions of the court particularly the collections, remittances and reporting of all legal fees collected by the court. Nicolas acted as such until the appointment of Clerk of Court II Edwin C. Santos on July 13, 2006.

In the meantime, Cabrera was dismissed from service for dishonesty and gross misconduct and was ordered to restitute P1,483,351.85 in this Court's decision^[2] dated January 27, 2006 in A.M. Nos. P-05-2027 and P-05-2028.

Due to the absence without leave (AWOL) of Nicolas and the grant of study leave to Santos, a second financial audit was conducted from March 1 to 5, 2010 on the books of accounts of the Guiguinto MTC covering the period August 1, 2004 to February 28, 2010. The period of accountability of Nicolas was from August 1, 2004 to July 31, 2006 while that of Santos was from August 1, 2006 to February 28, 2010.

Below is the summary^[3] of the accountability of Nicolas and Santos from the second audit:

Mr. Edwin C. Santos, Clerk of Court II	
Judiciary Development	P7,355.40

Fund (JDF)		
Fiduciary Fund (FF)		2,000.00
TOTAL	P	9,355.40
Ms. Flored L. Nicolas, former Interpreter and Officer-in-Charge		
Special Allowance for the Judiciary Fund (SAJF)	P	14,160.50
Judiciary Development Fund (JDF)		9,344.50
Fiduciary Fund (FF)		154,333.24
TOTAL	P	177,838.24

Santos' JDF shortage resulted from his accumulated under-remittances of JDF collections for the period August 2006 to February 2010 while the FF shortage was due to his undeposited collections. The above-computed shortages have already been restituted by Santos.

The shortages attributed to Nicolas, on the other hand, were due to her failure to deposit her collections on time during her tenure as collecting officer. Her shortages remain outstanding.

The audit team also noted that the triplicate FF Official Receipts Nos. 6729451-6729500 issued by Nicolas for the period February 2005 to June 2006 were not presented for examination. All cash bonds collected during said period were extracted mainly from the Monthly Reports of Collections/Deposits and Withdrawals for Fiduciary Fund, records of cases filed for said period, as well as from the withdrawals reflected on the court's LBP Savings Account. All efforts were exhausted by the audit team to establish the true and correct amount collected under O.R. Nos. 6729451-6729500 but the following official receipts remain unaccounted for:

6729466	9729485
6729478	9729500 ^[4]
6729481	

According to the audit team, Nicolas' accountability may still increase if the above unaccounted official receipts will be identified and examined.

In its Memorandum^[5] dated June 10, 2010 to Court Administrator Jose Midas P. Marquez, the audit team recommended that:

1. **Ms. ERLINDA U. CABRERA**, former Clerk of Court II, MTC Guiguinto, Bulacan, be DIRECTED within fifteen (15) days from notice to:

- a. **RESTITUTE** her balance of accountability in the following judiciary funds, to wit:

Fund		Amount
Clerk of Court General Fund (COCGF)	P	54,433.00
Judiciary Development		206,418.85

Fund (JDF)		
Fiduciary Fund (FF)		1,069,584.70
TOTAL	P	1,330,436.55

- b. **SUBMIT** to the Fiscal Monitoring Division, CMO, OCA copy of machine validated deposit slips or LBP Certification of the said restitution; and
2. This report be docketed as an administrative complaint against Ms. Flored L. Nicolas, former Court Interpreter and Officer-in-Charge, Municipal Trial Court, Guiguinto, Bulacan for non-remittance of collections in violation of Circular No. 50-95, Amended Administrative Circular No. 35-2004 and OCA Circular No. 113-2004.
3. **Ms. FLORED L. NICOLAS**, former Court Interpreter and Officer-in-Charge, MTC, Guiguinto, Bulacan, be **DIRECTED** within fifteen (15) days from notice to:

- a. **EXPLAIN** in writing why no criminal case shall be filed against her for appropriating judiciary collections for her personal use;
- b. **RESTITUTE** her balance of accountability in the following judiciary funds, to wit:

Fund		Amount
Special Allowance for the Judiciary Fund	P	14, 160.50
Judiciary Development Fund		9,344.50
Fiduciary Fund		154,333.24
TOTAL	P	177,838.24

- c. **SUBMIT** to the Fiscal Monitoring Division, CMO, OCA the following:
- c.1. copy of machine validated deposit slips or LBP Certification of the said restitution;
- c.2. triplicate copy of Official Receipts Nos. 6729451-6729500 for examination; and
- c.3. valid and authentic documents showing that the following Official Receipts were either cancelled or withdrawn, to wit:

6729466	9729485
6729478	9729500
6729481	

4. **Mr. EDWIN C. SANTOS**, Clerk of Court II, MTC, Guiguinto, Bulacan, be **DIRECTED** within fifteen (15) days from notice to:

- a. **PROCURE** from the Property Division, OAS, OCA the prescribed Official Cash Books for Judiciary Development Fund (JDF), Special Allowance for the Judiciary Fund (SAJF), Fiduciary Fund (FF), Sheriffs Trust Fund (STF) and Mediation Fund (MF) to be used in recording and monitoring of his judiciary collections.
- b. **EXPLAIN** in writing why no administrative case should be filed against him for not reporting and depositing his Mediation Fund collections for the period October 2008 to February 2010 in the total amount of P84,000.00 and for violating the provision of Amended Administrative Circular No. 35-2004 with regards to the timely deposits of judiciary fund collections.
- c. **STRICTLY ADHERE** to the provision of:
 - c.1. Administrative Matter No. 05-3-13-SC-PHILJA with regards to the timely submission of Monthly Reports of Collections and Deposits for the Mediation Fund.
 - c.2. Amended Administrative Circular No. 35-2004, Section 10 with regards to the proper handling of the Sheriffs Trust Fund and all Circulars issued by the Honorable Court, particularly OCA Circular No. 50-95.
 - c.3. Section 10, Rule 141 of the Rules of Court (Amended Administrative Circular No. 35-2004) Re: The amount of P1,000.00 shall be deposited with the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the case, subject to the usual accounting and auditing rules and regulations to disburse the amount. After service, a statement of liquidation shall be submitted to the court for approval.
 - c.4. Court issued Circulars with regards to the timely and full remittances/deposits of his judiciary collections and be **STERNLY WARNED** that the repetition of the same infractions will be dealt with more severely in the future.

x x x x^[6]

Said recommendations were approved^[7] by the Court Administrator and were adopted by this Court in a Resolution^[8] dated August 23, 2010.

In a Manifestation^[9] dated October 14, 2010, Cabrera prayed that her compliance with the August 23, 2010 Resolution be held in abeyance for the time being pending

final resolution of her criminal case for malversation of public funds so as not to render meaningless her constitutional presumption of innocence.

In a letter-explanation^[10] dated October 15, 2010, Santos attributed the delay in reporting and depositing of mediation collections from October 2008 to February 2010 to (a) lack of court personnel which constrained him to multi-task; and (b) his preparation for taking the 2008 and 2009 Bar Exams. He prayed that he be given a chance to rectify his lapses without administrative penalty.

The copy of the August 23, 2010 Resolution sent to Nicolas, however, was returned unserved with postal carrier's notation "RTS-moved out" on the envelope.^[11] On June 8, 2011, the OCA was required to inform the Court of the complete and present address of Nicolas.^[12] Per verification from the Records Division of the Office of Administrative Services of the OCA, however, there was no other address of Nicolas that was discovered or determined except that stated in her Personal Data Sheet, Statement of Assets, Liabilities and Net Worth and BIR Form 1902 which is at Blk. 8, Lot 5, Royale Estates, Bulihas, Malolos, Bulacan.^[13] Thus, this Court, in a Resolution^[14] dated November 28, 2011, required the officials and employees of Guiguinto MTC to inform the OCA if they know the whereabouts of Nicolas. In the same resolution, the letter-explanation of Santos and the manifestation of Cabrera were referred to the OCA for evaluation, report and recommendation.

In a Memorandum^[15] dated June 20, 2012, the OCA recommended to this Court that:

1. Respondent Erlinda U. Cabrera's prayer in her Manifestation dated 14 October 2010 that her compliance with the Resolution dated 23 August 2010 be held in abeyance pending final resolution of the criminal case against her be **DENIED** for lack of merit;
2. Ms. Flored L. Nicolas, former Court Interpreter and Officer-in-Charge, Municipal Trial Court, Guiguinto, Bulacan, be **DIRECTED** within fifteen (15) days from notice to:
 - a. **EXPLAIN** in writing why no criminal case shall be filed against her for appropriating judiciary collections for her personal use;
 - b. **RESTITUTE** her balance of accountability in the following judiciary funds, to wit:

Fund		Amount
Special Allowance for the Judiciary Fund	P	14, 160.50
Judiciary Development Fund		9,344.50
Fiduciary Fund		154,333.24
TOTAL	P	177,838.24

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- c. **SUBMIT** to the Fiscal Monitoring Division, CMO, OCA the following: