

EN BANC

[A.M. No. P-12-3047, October 15, 2013]

OFFICE OF THE COURT ADMINISTRATOR, PETITIONER, VS. NANCY R. LEAL, CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT (MCTC) -STA. IGNACIA-MAYANTOC-SAN CLEMENTE-SAN JOSE, TARLAC, RESPONDENT.

DECISION

PER CURIAM:

This administrative case arose from a financial audit conducted in the Municipal Circuit Trial Court (MCTC), Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac pursuant to Travel Order Number 021-2011^[1] dated January 24, 2011.

The financial audit, conducted from February 28 to March 19, 2011, was prompted by the request of the Accounting Division, Financial Management Office, Office of the Court Administrator (OCA) due to the non-submission of the monthly financial reports by Ms. Nancy R. Leal (Leal), Clerk of Court II of said MCTC. Her salaries from September 15, 2004 to May 15, 2005 were withheld due to her failure to submit the Monthly Report of Collections and Deposits.^[2]

Leal has been an Accountable Officer since January 1, 1992 to October 25, 2005, and from January 1, 2009 to the present. On October 26, 2005, Leal was relieved from her duties as Accountable Officer by Judge Domingo R. Joaquin, former Acting Judge of MCTC, Sta. Ignacia- Mayantoc-San Clemente-San Jose, Tarlac. In her stead, Mr. Rodelio A. Pedroche, Court Interpreter I of the same court was designated as the Officer-in-Charge until it was ordered revoked on February 27, 2009 by Judge Stela Marie Q. Gandia-Asuncion (Judge Gandia-Asuncion), the incumbent Presiding Judge. Leal was reinstated as Accountable Officer of the same court.^[3]

Among other findings, and respecting matters solely attributable to Leal, the audit revealed the following, to wit: a) there were undocumented withdrawals of cash bond deposits amounting to P220,000.00;^[4] b) there were unreported and undeposited collections amounting to P1,047,400.00 which resulted in a total shortage amounting to P567,757.71;^[5] c) delayed remittances that deprived the government of bank interest that should have been earned amounting to P296,809.47;^[6] d) there was a shortage in the Judiciary Development Fund (JDF) amounting to P928.50;^[7] e) certain documents were withheld and retained in Leal's possession while the audit team was conducting its examination;^[8] and f) among the Official Receipts that were issued to said court, there were four (4) booklets and four (4) pieces missing which correspond to the following series of numbers: 18843701 to 18843750, 2574101 to 2574150, 2574151 to 2574200, 2574201 to 2574250, and 4063301 to 4063304.^[9]

Based on the Financial Report^[10] of the audit team, the OCA submitted a memorandum to the Office of the Chief Justice where it was recommended that:

1. [T]his report be **DOCKETED** as a regular administrative matter against **Ms. NANCY R. LEAL**, Clerk of Court II of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac;
2. **Ms. NANCY R. LEAL**, Clerk of Court II of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac be **DIRECTED** within ten (10) days from notice to:

2.a) **SUBMIT** to the Fiscal Monitoring Division, Court Management Office all necessary documents stated below to authorize the refund of the cash bonds amounting to **P220,000.00**, to wit:

CASE NO.	BONDS MAN	RECEIPT NO[.]	COURT ORDER	WITHDRAWAL	AMOUNT	CO	AR
			DATE				
Crim Case no. 995- SC (96)	Shirita Gabriel	4063367	7/21/97	08/08/97	3,000.00		X
Crim no. 27878 – 27881	Maria Bagay	4063374		11/26 /97	3,000.00	X	
Crim no. 1103-M	Danilo F. dela Cruz	463373	6/5/98	06/08/98	2,000.00		X
Crim no. 1204-SI	Alerto Rana	4063383		10 /26/98	2,000.00	X	X
9 8 - 2109 MTC SAN FERNANDO PAM	Florentina B. Navarro	4063387		10/26/98	6,000.00	X	
1491-M	Ignacio Casco	9903959		12/04/01	6,000.00	X	
04-2001 Paniqui	George Cawigan	9903980		03/25 /02	5,000.00	X	
Crim. 1423-M	Rodney Espejo	9903955		11/18/03	6,000.00	X	
Crim. 1423-M	I sa ga ni Pa blo	9903956		11/18 /03	6,000.00	X	
2347- SI	Fiden I. To r re	13612736		04/06/04	100,000.00	X	
2307-SJ	Cristina Bergonio/ Junedel Rafanan	13612733		01/11/ 05	6,000.00	X	
1847- SC	Gregorio Ma n go b a	9903985		02/24/05	2,000.00	X	
2529- SI	Noel Ubaldo	13612747		02/24/05	6,000.00	X	
2398- S I	Rey Ferrer	13612741		05/05/05	6,000.00	X	

2337- SI	H ector Agustin	13612740		05/05/05	20,000.00	X	
2519- SI	Simeon Tipay Opeña	1361274		07/01/ 05	6,000.00	X	
2468S I(04)	Rosalino Andres	2468		10/26/05	18,000.00	X	
2348-SI	Fidel I. Torre	13612739	8/11/06	8/11/06	12,000.00		X
2935-SJ	Regino Esteban	3469203	8/10/10	8/13/10	5,000.00		X
Total 220,000.00							

Legend: AR - Acknowledgement Receipt; CO - Court Order

2.b) **RESTITUTE** the total shortages incurred amounting to **P865,495.68**, including the undocumented withdrawals referred to in **No. 2.a** above in case of failure to comply, broken down as follows:

Fund	Period Covered	Balance of Accountability
Fiduciary Fund (FF)	07/01/96 to 02/28/11	567,757.71
Judiciary Development Fund (JDF)	01/01/92 to 10/25/08	928.50
UNEARNED Interest due to delayed remittances (JDF)	07/25/03 to 11/09/05	296,809.47
TOTAL ACCOUNTABILITY 865,495.68		

2.c) **EXPLAIN** the following findings **(a)** unreported and undeposited collections amounting to **P1,047,400.00**; **(b)** issuing temporary receipts; **(c)** cancelled official receipts but with court orders that proved otherwise; **(d)** delayed remittances that deprived the government of the interest that should have been earned amounting to P296,809.47; (e) gross neglect of duty, for failure to perform her functions and duties as an accountable officer; and (f) documents withheld and retained in her possession while the audit team was conducting their examination; and

2.d) **ACCOUNT** for the missing official receipts issued by the Court to the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac, with series nos.

- 8843701 to 18843750;
- 2574101 to 2574150;
- 2574151 to 2574200;
- 2574201 to 2574250; and
- 4063301 to 4063304 (4 pieces)

3. **Ms. NANCY R. LEAL** be placed under preventive **SUSPENSION EFFECTIVE IMMEDIATELY WITHOUT** salary and other benefits;

4. **Ms. GENELYN C. GRAGASIN**, Court Stenographer I be designated as Accountable Officer of the Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac;

5. **Ms. GENELYN C. GRAGASIN** be **DIRECTED** to:

5.a) **VERIFY** and **ACCOUNT** the remaining fiduciary fund accounts deposited with the Municipal Treasurer's Office (MTO), and render a report thereon; and

5.b) **STRICTLY ADHERE** with the guidelines and Circulars issued by the Honorable Court with regards [sic] to the proper handling of judiciary funds;

6. Hon. **STELA MARIE Q. GANDIA-ASUNCION**, Presiding Judge, Municipal Circuit Trial Court, Sta. Ignacia-Mayantoc-San Clemente-San Jose, Tarlac be **DIRECTED** to strictly **MONITOR** the financial transactions of the court and be **REMINDED** that a repetition of the same infractions of the employees under her supervision shall be held her equally liable for the same.^[11]

Forthwith, the Court issued a Resolution^[12] on February 27, 2012 adopting the aforesaid memorandum and recommendations of the OCA.

Leal then filed a letter^[13] on April 12, 2012 asking for an extension of sixty (60) days within which to comply with the Court's Resolution and/or submit her answer considering that the ten (10) days given to her was too short.

On May 21, 2012, Ms. Genelyn C. Gragasin submitted the Statement of Unwithdrawn Fiduciary Fund^[14] in compliance with the Court Resolution.

On June 5, 2012, Leal filed another letter^[15] requesting an additional extension of sixty (60) days within which to file her answer. However, on June 22, 2012, Judge Gandia-Asuncion reported that from the time Leal received a copy of the Court's Resolution dated February 27, 2012 on April 3, 2012, she ceased to report for work.^[16]

Per Resolution^[17] dated July 30, 2012, the Court noted, among others, Leal's letters and granted her a non-extendible period of one hundred twenty (120) days from April 2, 2012 within which to file her answer.

On August 1, 2012, Leal filed her Answer/Letter-Compliance^[18] dated July 30, 2012 with the following assertions:

1) She denies that she incurred unauthorized refund of cash bonds. To support her claim, she submitted the affidavits of the respective bondsmen acknowledging receipt of withdrawn cash bond in Criminal Case Nos. 995-SC (96), 1103-M and 1204-SI. In addition, she also attached the affidavit^[19] of the Barangay Chairman of Poblacion East, Sta. Ignacia, Tarlac, Mr. Ricky T. Silverio (Silverio) to buttress her declaration that although the withdrawn cash bond in Criminal Case No. 2348-SI for then accused Fiden Torre was duly received by said accused's surviving spouse, it has now become an impossibility to secure the affidavit of the latter since she already migrated to the United States of America;

2) She cannot produce the court orders which authorized the withdrawals of the concerned cash bonds because she cannot avail of the records in their office.