

EN BANC

[A.M. No. P-11-3024, July 17, 2012]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
MA. IRISSA G. MUSNGI, COURT LEGAL RESEARCHER II,
REGIONAL TRIAL COURT, JUDICIAL REGION III, BRANCH 36,
GAPAN CITY, NUEVA ECIJA, RESPONDENT.**

D E C I S I O N

PER CURIAM:

In January 2011, Judge Cielitolindo A. Luyun (Judge Luyun) assumed office as Presiding Judge of the Regional Trial Court (RTC), Judicial Region II, Branch 36, Gapan City, Nueva Ecija. Upon assumption of office, he conducted an inventory of pending cases and evidence submitted to the trial court. During the inventory, he found a handwritten receipt^[1] for P45,000. The amount, which was missing, was part of the evidence in Criminal Case Nos. 8674, 9096, 9151 and 9152. The recipient of the amount was Ma. Irissa G. Musngi (Musngi), Court Legal Researcher II of the RTC.

In a memorandum^[2] dated 2 February 2011, Judge Luyun directed Musngi to explain why no administrative case should be filed against her for tampering with evidence submitted to the trial court. Judge Luyun also directed Musngi to reconstitute the P45,000.

In a letter^[3] dated 21 February 2011, Musngi explained that (1) the P45,000 was part of the evidence seized by the apprehending officers in Criminal Case Nos. 8674, 9096, 9151 and 9152; (2) retired Judge Arturo M. Bernardo (Judge Bernardo) directed Musngi to deposit the amount with the Office of the Clerk of Court; (3) the cashier at the Office of the Clerk of Court accepted then returned the amount to Musngi; and (4) Judge Bernardo directed Musngi to use the amount for the repair of the ceiling and toilet of the trial court. After several demands, Musngi reconstituted the P45,000 on 4 March 2011.

In a memorandum^[4] dated 18 March 2011, Executive Judge Celso O. Baguio (Judge Baguio), RTC, Judicial Region III, Branch 34, Gapan City, Nueva Ecija, asked Judge Luyun to submit a report on any action he has taken regarding Musngi's 21 February 2011 letter. Judge Baguio furnished the Office of the Court Administrator (OCA) a copy of the memorandum.

In a letter^[5] dated 30 June 2011, the OCA required Judge Luyun to submit a report, together with supporting documents, on any action he has taken regarding Judge Baguio's 18 March 2011 memorandum.

In a report^[6] dated 8 August 2011 and submitted to Judge Baguio and the OCA,

Judge Luyun stated that:

The evidence shows the amount of Php 45,000.00 was part of the evidence seized by the enforcers in Criminal Cases [sic] Nos 8674, 9151, 9096, and 9152 which are [sic] part of the accountabilities of Ms. Gutierrez as the then evidence custodian of this court and which she turned over to Ms. Musngi on July 19, 2005, in view of the former's transfer to another court. The same amount was in turn turned over by Ms. Musngi to Ms. Pangilinan for safekeeping only in the Office of the Clerk of Court upon verbal instruction of the then Executive/Presiding [sic] Judge Arturo m. [sic] Bernardo. Since there is no account with which to credit the amount of Php 45,000.00, Ms. Pangilinan issued an acknowledgment receipt instead of the customary official receipt. Later or on February 6, 2006, Ms. Musngi withdrew the said amount from Ms. Pangilinan. By her own admission, Ms. Musngi spent the money for the alleged repair of the previous court's courtroom, chamber room, an [sic] restroom. However, Ms. Musngi failed to submit receipts in support thereof. Inquiries made with court employees disclosed that the sala of Branch 36, RTC was housed at the old City Hall and all repairs made therein were shouldered by the city government. The old City Hall had undergone renovation to be used as a hospital and we cannot confirm as to whether or not the previous sala had actually undertaken any repairs.

[7]

In a report^[8] dated 28 November 2011, the OCA found Musngi liable for grave misconduct and serious dishonesty, and recommended that Judge Luyun's 8 August 2011 report be re-docketed as a regular administrative matter and that Musngi be dismissed from the service. The OCA held that:

EVALUATION: There is sufficient basis to hold Ms. Ma. Irissa G. Musngi liable for Grave misconduct and serious dishonesty. Although it is within her right, as Officer-In-Charge, to place in custody and safe keep the money from the Office of the Clerk of Court-Regional Trial Court representing the cash evidence in several criminal case [sic] raffled to Branch 36, RTC, Gapan, Nueva Ecija, she took the money for the wrong reason. There is no law or rule giving her the authority to utilize the cash evidence of Php 45,000.00 for her personal interest or for the alleged repairs of the dilapidated rooms and restroom of RTC, Branch, 36, Gapan. The allegation that then Judge Arturo Bernardo of Branch 36 directed her to undertake repairs of dilapidated court rooms and restroom of the branch are not supported by affidavits of witnesses and receipts of expenses.

The act undertaken by Ms. Musngi in using her authority to get the cash money for her personal use is a clear case of Grave Misconduct, which, by legal definition, is a "transgression of some established and definite rule of action, more particularly, unlawful behavior as well as gross negligence by a public officer. It is this kind of gross and flaunting misconduct on the part of those who are charged with the responsibility

of administering the law and rendering justice that so quickly and surely corrodes the respect for law and the courts without which the government cannot continue and that tears apart the very bonds of our polity[.]” To constitute an administrative offense, misconduct should relate to or be connected with the performance of the official functions and duties of a public officer, a condition which was clearly applicable in this case when Ms. Musngi, exercising her position as OIC of RTC, Branch 36, retrieved the Php 45,000.00 cash evidence from the OCC-RTC only to spend it for her personal interest.

A clear case of serious dishonesty was likewise committed when Ms. Musngi made claims that the cash evidence taken was used for court room repairs when she could not substantiate the same. Being a law graduate, she also ought to know that it is not appropriate to utilize case evidence for court room repairs. Repairs in the Halls of Justice are within the ambit of the Halls of Justice-Office of the Court Administrator, with assistance of the Local Government Unit concerned.

Though Ms. Musngi restituted the amount of Php 45,000.00 after repeated demands by the Branch Clerk of Court, such restitution does not exculpate her from administrative liability, more so when the amount taken was cash evidence in a criminal case. Restitution, full or otherwise, of the missing amount and obviously misappropriated by her does not absolve her from the offense of Dishonesty, which she admitted to have committed.

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

- 1) the complaint be RE-DOCKETED as a regular administrative matter; and,
- 2) Ma. Irissa G. Musngi, Court Legal Researcher II, Regional Trial Court (RTC), Branch 36, Gapan City, Nueva Ecija, be held guilty of Grave Misconduct and Serious Dishonesty, and be DISMISSED from the service with forfeiture of all her benefits, except accrued leave credits, and disqualified from reemployment in any government agency, including government-owned or controlled corporations.^[9]

In its 14 December 2011 Resolution,^[10] the Court re-docketed the case as a regular administrative matter.

The Court finds Musngi guilty of dishonesty and grave misconduct. In *Alenio v. Cunting*,^[11] the Court defined dishonesty and grave misconduct:

Dishonesty is the “disposition to lie, cheat, deceive, defraud or betray; untrustworthiness; lack of integrity; lack of honesty, probity, or integrity in principle; and lack of fairness and straightforwardness.”

Misconduct, on the other hand, is a transgression of some established