

EN BANC

[A.M. No. P-04-1820, August 06, 2008]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
CLARITA QUINTANA-MALANAY, CLERK OF COURT, METC,
PATEROS, METRO MANILA, RESPONDENT.**

DECISION

PER CURIAM:

This administrative matter stemmed from the financial audit of the Metropolitan Trial Court of Pateros, Metro Manila (MeTC-Pateros), conducted by the Court Management Office (CMO) under the Office of the Court Administrator (OCA). The audit covered the periods October 2003 to January 29, 2004 and concerned the accountability of respondent Clerk of Court Clarita Quintana-Malanay.

The audit team reported that the preliminary cash count revealed an initial cash shortage of P9,438.00,^[1] as the team was able to count only P8,652.00^[2] of the P18,090.00^[3] total undeposited collections for the periods October 2003 to January 29, 2004. When the audit team attempted to conduct a more detailed and comprehensive financial audit on all the books of accounts of the court, it noted that respondent Malanay was apprehensive in providing them the pertinent documents needed to make a thorough audit. The audit team requested respondent Malanay to produce all the case folders of these cases in which the cash bonds were reported to have been withdrawn already, but of the 229 case folders the audit team requested, only two (2) folders were given. Respondent Malanay also failed to present the passbook and submit the list of unwithdrawn cash bonds. She requested a one-day extension to update the court records but it took her seven days to produce the requested documents. In view of respondent Malanay's uncooperativeness, Judge Marilou Runes-Tamang relieved her as Officer-in-Charge and designated Roselyn L. Villano as replacement.^[4]

The audit team likewise reported the following:

1. The Fiduciary Trust Fund Savings Account which was opened for MeTC-Pateros was under the personal name of respondent Malanay with her as the sole signatory.^[5]
2. A confirmation with the depository bank, Land Bank of the Philippines-Pasig Branch, disclosed that the cash-in-bank balance as of January 29, 2004, for said account was only P20,066.05, inclusive of P10,066.05 interest earned from the date it was opened.^[6]

3. In five cases, respondent Malanay forged the signature of then Presiding Judge Lorifel Lacap-Pahimna in court orders attached to the case folders.^[7]
4. In Criminal Cases Nos. 5172-96, 5264-97 and 5327-97 which were supposedly archived with their respective cash bonds ordered confiscated by Judge Pahimna, respondent Malanay attached and certified duplicate copies of court orders dismissing the said cases and released the posted cash bonds without Judge Pahimna's signature.^[8] No original court orders dismissing these cases were found on file.
5. In 19 cases, the respective cash bonds totaling to P55,500.00 were withdrawn without court orders specifically signed by the presiding judge. Instead, a copy of an order stamped "original signed" was attached. However, no original court orders were found in the case folders. Likewise, said court orders lacked the initials of the staff who typed the same, contrary to the usual practice of typing the staff's initials in the court order.^[9]
6. In 35 cases where their cash bonds totaling P108,100.00 were ordered confiscated, no deposits were found in the accruing account of the government and yet the same were reported as withdrawn.^[10]
7. In 5 cases, cash bonds were withdrawn without direct court orders to release the same. Furthermore, there were no acknowledgment receipts to prove that said cash bonds were received by the bondsmen or their authorized representative. Likewise, no motions were filed by the accused to withdraw the cash bond posted.^[11]
8. The collections pertaining to the Fiduciary Trust Fund amounting to P1,044,421.75 were not reported to the Accounting Division, Office of the Court Administrator and were not reflected in the Clerk of Court Cash Book for Fiduciary Trust Fund.^[12]
9. Thirty-six case folders^[13] were not submitted to the audit team upon respondent Malanay's claim that the records can no longer be found in the court's custody.^[14]
10. The cash bond in Criminal Case No. 5710 with Official Receipt (O.R.) No. 8033806 dated June 18, 1999 amounting to P3,000.00 was withdrawn without a court order and acknowledgment receipt to support its withdrawal.^[15]
11. In Criminal Case No. 5696, a cash bond amounting to P1,000.00 was ordered by Judge Pahimna to be withdrawn and to be remitted to the Judiciary Development Fund as payment of court fine imposed on the accused. No remittance was made but the amount

was reported as withdrawn.^[16]

12. In Criminal Case No. 4850-94, there were no acknowledgment receipts found in the records to prove that the cash bonds amounting to P6,000.00 were received by the bondsman.^[17]
13. The collections pertaining to the JDF, for the periods 1985 to 2004, revealed a shortage of P5,095.00. However, the team failed to verify the transactions reported from 1985 to 1993 due to missing triplicate copies of official receipts.^[18]

There were also instances where the amounts reflected in the official receipts were greater than the amounts actually reported/recorded. Some official receipts were issued not according to its sequence. Furthermore, the collections were deposited on a monthly basis.^[19]

14. As to the collections pertaining to the General Fund for the periods 1995 to 2003, the collections revealed a shortage of P50,137.00.^[20]
15. Respondent Malanay did not report in the cash book the transactions involving O.R. No. 15395438 pertaining to Criminal Case No. 5251-97 amounting to P50,000.00 as fine imposed by Judge Tamang on the accused.^[21]
16. The team also noted respondent Malanay's late submission of monthly reports, late remittances of collections, incorrect cash book footings of collections resulting to under remittances, and missing booklet of official receipts with series 5058101 to 5058150.^[22]
17. As per collections pertaining to the Victims Compensation Fund, the audit revealed a shortage of P150.00. Moreover, most of the collections were remitted beyond the required schedule.^[23]
18. As to the Legal Research Fund, the audit team found a shortage of P235.00. The official receipts supporting the collections from July 31, 2002 to December 31, 2003 were unavailable. Likewise, collections amounting to P270.00 were not reflected in the cash book and were not remitted to UP Law Center.^[24]
19. Fees amounting to P2,100.00 for seven marriage solemnizations were unsupported by official receipts.^[25]
20. From 2001 to 2003, filing fees in eight *estafa* cases were not collected.^[26]

In sum, the accountabilities/cash shortages of respondent Malanay found by the audit team were as follows:

<u>PARTICULARS</u>	<u>AMOUNT</u>
I. Fiduciary Trust Fund	P 640, 751.75
II. Judiciary Development Fund	P 5, 095.00
III. General Fund	P 50, 137.00
IV. Special Allowance of Justices & Judges	0.00
V. Victims Compensation Fund	P 150.00
VI. Legal Research Fund	P 295.00 ^[27]
VII. Others (Marriage Solemnization)	P 2,100.00
TOTAL	P 698,528.75^[28]

The audit team failed to compute the actual interest which should have accrued to the Court since the audit was substantially affected by numerous missing documents.

On the basis of the foregoing findings and the documents at hand, the OCA recommended on May 20, 2004^[29] that the audit report be treated as an administrative complaint against respondent Malanay.

On June 8, 2004, acting on the report and recommendation of the OCA, the Court resolved to

(a) **DOCKET** the subject report as A.M. No. P-04-1820 (Office of the Court Administrator vs. Clerk of Court Clarita Quintana-Malanay);

(b) **DIRECT** Clerk of Court Clarita Quintana-Malanay to

(1) **DEPOSIT** to the Fiduciary Fund the total amount of P345,930.00, representing cash in bank shortages, falsified withdrawals, and confiscated cash bonds which were not remitted to the JDF, and **SUBMIT** to the Fiscal Monitoring Division, OCA, the validated deposit slips, both within thirty (30) days from notice hereof;

(2) **WITHDRAW** from the Fiduciary Fund the amounts of P10,066.05 and P108,000.00, representing interest earned and confiscated cash bond, respectively; **DEPOSIT** the same to the JDF account; and **SUBMIT** to the Fiscal Monitoring Division, OCA, the validated deposit slips, all within thirty (30) days from notice hereof;

(3) **SUBMIT**, within ten (10) days from notice hereof, the original Court Orders in the following cases where bonds were refunded with unsigned court orders;

CASE NUMBER	LITIGANTS	BOND POSTED

5336 to 5338; 5342	Gilson Roque	P4,000.00
5469	Salvador Arento, et al.	5,000.00
5469	Leandro Santiago	5,000.00
5650 to 5651	Benjamin Reymundo	1,500.00
5874-00	Dominador S. Yumal	4,000.00
5820-99	Vicente Sumapit, Jr.	6,000.00
6152	Arnold Paros	2,000.00
6173	Daniel Torres	2,000.00
6303	Ernesto Roces	3,000.00
6333-03	Jorge Copia	5,000.00
6334-03	Jayson Manzano	5,000.00
6334-03	Jorge Copia	5,000.00
6325-03	Elias Millis	2,000.00
6350	Danilo Sandoval	3,000.00
6351	George Villanueva	3,000.00
TOTAL		P55,500.00

(4) **SUBMIT** to the Court, within (10) days from notice hereof, the Court Order authorizing the refund of the cash bond posted in Criminal Case No. 5710;

(5) **DEPOSIT** the amounts of P55,095.00, P137.00, P150.00 and P295.00, representing the balance of her accountability in the Judiciary Development Fund, General Fund, Victims Compensation Fund and Legal Research Fund, respectively, and **SUBMIT** to the Fiscal Monitoring Division, OCA, the validated deposit slips, both within ten (10) days from notice hereof;

(6) **REMIT**, within ten (10) days from notice hereof, the amount of P2,100.00 representing solemnization fees which were not receipted;

(7) **ACCOUNT**, within ten (10) days from notice hereof, for the missing Official Receipts which pertains to the Judiciary Development Fund covering the period of 1985 to 1993, and part of the series issued for the General Fund covering the period of 1 February 1997 to 31 August 1997; and

(8) **PRODUCE**, within ten (10) days from notice hereof, the case folders of the following thirty six (36) criminal cases:

DATE	O.R. NUMBER	CASE NUMBER	AMOUNT
3/___/96	4127030	4985 to 4993	9,000.00
3/30/95	4127031	5019 to 5022	8,000.00
9/24/96	5058154	96-126 to 96-128	6,000.00
2/11/97	5058192	529 to 5249	28,000.00
4/18/97	5058303	257-97	2,000.00