

EN BANC

[A.M. NO. 05-8-233-MTC, January 31, 2006]

**RE: FINAL REPORT ON THE FINANCIAL AUDIT CONDUCTED AT
THE MUNICIPAL TRIAL COURT OF MIDSAYAP, NORTH
COTABATO,**

D E C I S I O N

PER CURIAM:

Since May 1998, Clerk of Court II Joselito S. Fontilla (Fontilla) of the Municipal Trial Court (MTC), Midsayap, North Cotabato, failed to submit the monthly reports of collections and deposits to the Accounting Division, Financial Management Office. ^[1] Thus, on May 31, 2004, an audit team proceeded to Midsayap, North Cotabato to conduct a cash count. ^[2]

In the course of the audit, the team required Freddie C. Eruela (Eruela), Clerk II of MTC-Midsayap, to produce the necessary documents as he was allegedly in-charge of the collections in the absence of Fontilla but he disclaimed knowledge of the whereabouts of the documents. However, when some members of the audit team returned to Midsayap on June 2, 2004, they found the missing documents in a sack under Eruela's table. This time, Eruela admitted that he had been assisting Fontilla in the collections and deposits of the Judiciary Development Fund (JDF) and Fiduciary Fund (FF).

In the investigation conducted by Presiding Judge Teresita Carreon-Llaban (Judge Carreon-Llaban), Eruela admitted that he altered the entries in the passbook of Savings Account (SA) No. 1001-0360-64 and made it appear that the total collections were deposited. He confessed that he and his officemates borrowed from the collections of the court; that some were erroneously deposited to the JDF account while the rest were stolen. ^[3]

In the report dated November 30, 2004, ^[4] the audit team noted that: (1) collections amounting to P3,060.00 were deposited to their corresponding fund accounts only after the cash count audit; (2) Fontilla did not submit the monthly reports for the FF and the General Fund (GF) while the last monthly report submitted for the JDF was in April 1998; (3) MTC-Midsayap started collecting fees for the GF only in October 2003 despite the mandate of Administrative Circular No. 11-94 dated June 28, 1994 to start collecting on August 1, 1994; (4) several official receipts were missing; (5) interest earned from the FF deposits from November 1996 to March 2004 (excluding the period July 2000 to June 2001 when the passbook for this deposit was missing) in the amount of P24,636.11 was not remitted to the JDF; (6) collections amounting to P174,000.00 were not deposited to the FF account and several entries in the passbook for SA No. 1001-0360-64 were altered to make it appear that the amounts deposited equal the amounts collected; and (7) the total accountability of Fontilla is P182,013.25 for the JDF and

P298,086.72 for the FF.

In a Memorandum dated November 30, 2004, [5] Deputy Court Administrator Christopher O. Lock (DCA Lock) directed Eruela to explain his failure to submit for audit the documents relative to the cash count and the alterations found in the passbooks. [6] Eruela explained that he personally helped the team look for the audit documents. When they could not find the documents and after the team had left, he continued looking and found the documents inside the stock room. He stated that these were the sacks the team saw under his table. He alleged that he altered the entries in the passbook with no malice or intent to defraud and that he intended to pay any deficiency. [7]

In another Memorandum dated December 7, 2004, [8] DCA Lock directed Fontilla to explain his continued defiance in submitting the required monthly reports; his failure to collect the fees accruing to the GF from August 1, 1994 to September 30, 2003; and the alterations in the passbook of SA No. 1001-0360-64. Fontilla was also directed to account for the missing official receipts, as well as submit the missing passbook covering the period from August 10, 2000 to August 16, 2001, supporting documents of all FF withdrawals and other proofs of remittances to the JDF. Finally, Fontilla was ordered to pay the amounts of P182,013.25 and P298,086.76, representing the balance of his accountability for the JDF and the FF, respectively.

In a Memorandum dated August 15, 2005, [9] the Office of the Court Administrator (OCA) recomputed the accountability of Fontilla and found that it amounted to P2,855,987.36. Likewise, it found Fontilla accountable for the missing and unaccounted official receipts.

The OCA thus recommended [10]

1. to docket the audit report as a regular administrative complaint against Fontilla and Eruela;
2. to direct Fontilla to pay P182,013.25 and P2,673,974.11 representing his accountabilities for the JDF and FF and submit to the Fiscal Monitoring Division the unaccounted official receipts; [11]
3. to adopt the recommendations of Judge Carreon-Llaban that Eruela be ordered to restitute the amount of P56,000.00 representing the altered amount of deposits and be suspended pending resolution of the administrative matter;
4. to direct Alcantara to withdraw the interest income of FF deposits amounting to P24,636.11 and deposit the same to the JDF account; submit to the Fiscal Monitoring Division the corresponding withdrawal and deposit slips as proofs of compliance; exert all efforts to locate the unaccounted official receipts;
5. to direct the National Bureau of Investigation to locate Fontilla and serve him a copy of the resolution of the Court on this matter; and