

EN BANC

[A.M. NO. 02-9-233-MTCC, April 27, 2005]

IN RE: REPORT ON THE JUDICIAL AND FINANCIAL AUDIT CONDUCTED IN THE MUNICIPAL TRIAL COURT IN CITIES, KORONADAL CITY

D E C I S I O N

PANGANIBAN, J.:

The administration of justice is circumscribed with a heavy burden of responsibility. It requires everyone involved in its dispensation --from the justices and judges to the lowliest clerks -- to live up to the strictest standards of competence, integrity and diligence in the public service.^[1]

The Case and the Facts

This administrative case stems from the Judicial and Financial Audit conducted in the Municipal Trial Court in Cities (MTCC) of Koronadal City from August 5 to August 9, 2002, by an audit team from the Office of the Court Administrator (OCA).

Judge Agustin T. Sardido, who presided over the MTCC of Koronadal City, assumed office sometime in May 1988; and Clerk of Court Maxima Borja, on February 18, 2002. The latter, however, had been employed therein since 1987, serving as clerk II and stenographer until she was appointed clerk of court. Prior to Borja's assumption, the clerk of court was Normandie A. Ines, who compulsorily retired on October 9, 2001.

The audit team found that Judge Sardido usually arrived late for work. On Mondays, he would report only in the afternoons. Due to his habitual tardiness, court sessions were usually scheduled only in the afternoons.

The audit team also found that Judge Sardido had allowed Rufino Vargas, a non-employee of the court, to discharge the duties and functions of a court interpreter without the prior approval of the OCA.

Judicial Audit

The audit team's physical inventory of pending cases revealed these findings:

1. Thirty-two (32) civil cases^[2] remained undecided beyond the reglementary period of 90 days (or 30 days for those falling under the Rules on Summary Procedure.
2. Forty-three (43) criminal cases^[3] were likewise undecided beyond the 90-day reglementary period.

3. The court was highly disorganized in its custody of exhibits. Those turned over to Borja, the clerk of court, were merely kept inside her table drawers without being inventoried, making it impossible to keep track of all the exhibits in custody. Worse, persons unauthorized to receive exhibits had been allowed to do so, enabling some of them to use the items.

a. In Criminal Case No. 4311-24, *People v. Vicente Seromines*, Judge Sardido admitted having personally received from the Philippine National Police (PNP) a .45-caliber pistol, which he did not turn over to Borja. The judge took possession of the gun and carried it around, allegedly because of threats on his life. When its safety pin malfunctioned, he supposedly gave it to a member of the PNP for repair. The judge was later informed that it had been taken by another PNP member, who allegedly recognized it as the gun that had been stolen from the latter. As of the audit date, it remained unaccounted for.

b. In *People v. Gerardo Pala* -- another case for illegal possession of firearm and ammunition, docketed as Criminal Case No. 21643 -- a .45-caliber pistol with Serial No. BL30120 plus two magazines and thirty-two (32) live ammunitions were confiscated from the accused. Rufino Vargas, without having been appointed as an employee of the court, received the said items on April 20, 2002. Judge Sardido confirmed that he had allowed the former to do so, because the items had allegedly been brought to the court after office hours, and the only ones left in the court at the time were the two of them. However, it was only on the fourth day of the audit, August 8, 2002, that Vargas turned the gun over to the clerk of court.

c. Likewise, in *People v. Centeno*, docketed as Criminal Case No. 21550, Pablito Pendilla -- a court stenographer -- personally received and took custody of a 9-mm caliber gun on May 27, 2002. He turned it over to Borja only on the fourth day of the audit.

4. Contrary to Section 5 of Rule 112 of the Revised Rules on Criminal Procedure^[4] regulating preliminary investigations, Judge Sardido did not transmit to the provincial or city prosecutor the resolutions and the records of cases^[5] that he had dismissed.

5. Instead of resolving cases as provided under Section 3(d) of Rule 112 of the Revised Rules on Criminal Procedure,^[6] the judge archived criminal cases^[7] that were under preliminary investigation.

Financial Audit

The financial audit revealed the following findings:

1. Contrary to the mandate of Section 20 of Rule 141 of the Rules of Court, the court failed to collect filing fees in estafa and BP 22 cases.

2. An examination of the case records showed that from September 1993 to February 2001, during the incumbency of Ines -- the clerk of court then -- a number of cash bonds amounting to P460,200 were posted with the court without being officially receipted.
3. After Ines retired, three (3) cash bonds amounting to P15,000 were posted but not officially receipted. The audit team, however, found Borja's entries in the cashbook for the Clerk of Court Fiduciary Fund (CCFF) to be in order.
4. The practice of not issuing official receipts allowed Ines to appropriate the funds for unauthorized purposes. The funds were lent to court personnel, including Judge Sardido. In fact, the judge himself admitted that on at least four occasions sometime in 1996, he had borrowed one hundred thirty thousand pesos (P130,000), which he used to buy a car.
5. As a result of the misappropriation of the funds, the cash bonds of P40,000 in Criminal Case No. 4818 (*People v. Ortiz*) and P32,000 in Criminal Case No. 3891-25 (*People v. Santos*) could not be released despite orders by the regional trial courts.
6. Records of the Office of the Municipal Treasurer of Koronadal show that the CCFF in the amount of P495,527 had apparently been turned over by the municipal treasurer to the Office of Municipal Judge Sardido. The amount, however, remained unaccounted for.
7. For the period April 3, 1996 to September 20, 2001, Ines received cash bonds amounting to P494,836, for which official receipts were issued. On the other hand, he apparently received unreceipted cash bonds amounting to P460,200 from September 21, 1993 to September 30, 2001. As of the audit date, the total funds amounting to P955,036 -- presumably collected remained unaccounted for.
8. No collections for the Judiciary Development Fund (JDF) were recorded in the court's cashbook from July 1989 to January 1991.
9. For the period February 1985 to September 2001, Ines incurred a shortage of P31,366.42 in JDF remittances.
10. On the other hand, for the period October 2001 to July 2002, Borja over-remitted the amount of P15,630.57 to the JDF.
11. For the period October 1997 to September 2001, Ines incurred a shortage of P89,412.90 in the Clerk of Court General Fund (CCGF) remittances.
12. For the period October 2001 to July 2002, however, Borja over-remitted the amount of P2,365.50 to the general fund.
13. Almost all of the deposit slips for the JDF and the CCGF remittances were not machine-validated. And upon request for confirmation of deposits from the Land Bank in Koronadal City, the amount of P25,845 -- despite its entry in the court's cashbook under "JDF Deposits" -- was not confirmed by the bank.

14. During the incumbency of Ines, collections for the JDF, the CCGF and the CCFF would sometimes be accumulated for six (6) months before being deposited with the Treasurer's Office or the Land Bank.

In a Resolution dated October 2, 2002, this Court (Third Division) resolved, among other courses of action, to suspend Judge Sardido; to treat the Judicial and Financial Audit Report as an administrative matter against respondents; to withhold further emoluments due them; and to require them to explain the charges against them. It also required Ines to transmit to this Court all documents pertaining to his collections for the CCGF, the CCFF and the JDF and to restitute the amounts of P31,366.42 and P89,412.90, representing the shortages in the remittances of the JDF and the CCGF collections during his incumbency.

On November 14, 2002, Ines filed his explanation, the cashbooks of the MTCC of Koronadal City, as well as the acknowledgements and vale receipts allegedly signed by Judge Sardido and other court personnel who had accountabilities against court funds.

In his explanation, Ines denied using court funds for the benefit of his colleagues. Allegedly, because the funds were not in his possession, he could not possibly be guilty of the charges against him. He also denied failing to issue receipts for cash bonds, claiming that, being on leave at the time, he could not have received them. He justified his failure to enforce collections for the JDF from July 1989 to January 1991 by saying that no such funds accrued during that period. As to the alleged fund shortages and erroneous entries in the cashbook, he also denied the charges, saying that the audit reports conducted by the Commission on Audit in South Cotabato had proved the regularity of the court finances.

With respect to the charges of receiving an exhibit without authority and of being included among Ines' list of court personnel with outstanding accountabilities against court funds, Pablito W. Pendilla filed his explanation dated November 6, 2002. He claimed that he had received the exhibit under instruction from Judge Sardido. And while Pendilla admitted to having borrowed money from Ines, the former denied knowing that it had come from court funds and averred that the sums due had already been repaid.

Maxima Z. Borja filed a letter dated November 29, 2002, explaining the charges against her. Supposedly unaware of the new filing fee rates, she used the old ones. She pointed out, however, that she could not fully monitor the payment of the required fees, since complainants would often proceed directly to Judge Sardido.

She admitted her failure to discover the irregularities in the custody of exhibits. As to the .45-caliber pistol, Rufino Vargas allegedly received it upon instruction of Judge Sardido, according to the information the latter conveyed to her. She denied knowing that Pablito Pendilla had taken custody of the gun, because she was attending a convention at the time.

The failure to issue official receipts for two cash bonds, she explained, had been done before she assumed the position of clerk of court. Lastly, she sought this Court's understanding of her over-remittance of some amounts to the CCGF and the JDF. She averred that she had no background in accounting and had to make do

with whatever books, records and documents her predecessor had turned over to her.

Judge Sardido filed his own explanation dated December 6, 2002. Except for the charge of being habitually tardy, which he said was due to his designation as presiding judge in four other courts, he substantially admitted the material averments in all the other charges against him.

Report and Recommendation of the OCA

In its June 16, 2003 Memorandum, the OCA submitted the following recommendations:

"b) Judge Agustin T. Sardido be fined in the amount of P40,000.00 the same to be deducted from his leave credits;

"c) Judge Sardido be directed to return the amount of P582,500.00 he borrowed from the Fiduciary Fund, the same to be deducted from his leave credits;

"d) Mr. Normandie A. Ines be fined in an amount equivalent to his salary for six (6) months, the same to be deducted from his leave credits;

"e) Mr. Ines be ordered to restitute the amount of P593,305.32 representing the shortage in the General Fund, Judiciary Development Fund and Fiduciary Fund, the same to be deducted from his leave credits;

"f) Ms. Borja be fined in the amount of P5,000 and directed to adopt a more efficient system of collecting the docket fees and of taking care of court exhibits;

"g) Mr. Pendilla be fined in the amount of P3,000.00;

"h) The filing of criminal charges against Judge Sardido and Mr. Ines be held in abeyance until after the resolution of this administrative case;"^[8]

The Court's Ruling

The Court agrees with the findings and recommendations of the OCA.

Administrative Liability of Respondents

Those charged with the dispensation of justice, from the justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct at all times be characterized by propriety and decorum but, above all else, it must be beyond suspicion. Every employee should be an example of integrity, uprightness and honesty. Integrity in a judicial office is more than a virtue; it is a necessity. It applies, without qualification as to rank or position, to all officials and employees, all of whom are deemed standard-bearers of the exacting norms of ethics and morality imposed upon courts of justice.^[9]

Judge Sardido