

EN BANC

[A.M. No. P-96-1206, June 11, 1996]

**FIELD FINANCIAL OPERATIONS DIVISION, OFFICE OF THE
COURT ADMINISTRATOR, COMPLAINANT, VS. FELIPE L. LUCIO,
CLERK OF COURT II, MUNICIPAL TRIAL COURT, SAN JOSE DEL
MONTE, BULACAN, RESPONDENT.**

DECISION

PER CURIAM :

IN A SPOT AUDIT, examination and reconciliation of the Judiciary Development Fund (JDF) collections, deposits and cash accountabilities conducted on 14 May 1991 in the Municipal Trial Court of San Jose del Monte, Bulacan,^[1] the Field Financial Operations Division of the Office of the Court Administrator reported that Felipe L. Lucio, Clerk of Court II, as an accountable officer, had been remiss in his duties and responsibilities in violation of pars. 3 and 5(c) of Circular No. 5, the implementing rules and regulations of P.D. No. 1949 otherwise known as the Judiciary Development Fund.^[2]

Specifically, the charges against respondent were: (1) failing to remit JDF collections from 23 February 1988 to 15 May 1991, or for a period of three (3) years and one (1) month; (2) failing to use any cash book to record daily JDF activities from March 1985 to October 1990, or for a period of five (5) years and eight (8) months; (3) issuing court clearances without collecting the corresponding JDF fees for 10 August 1987, 22 February 1988, 3 October 1988, and 16 February 1989; and, (4) failing to collect docket fees appertaining to the Supreme Court under the JDF in Civil Cases Nos. 100-89, 101-89 and 062-88.^[3]

On 8 July 1991 the Office of the Court Administrator directed respondent to explain why no disciplinary action should be taken against him for the aforecited violations. But respondent did not comply.

On 8 July 1992 the Office of the Provincial Auditor, Malolos, Bulacan, made a scheduled cash and account examination in the same Court and found respondent to have grossly violated accounting and auditing rules and regulations.

In his letter dated 30 September 1992 to the Chief Justice through the Executive Judge of the Regional Trial Court of Malolos, Bulacan, State Auditor IV (Provincial Auditor) Arsenio E. Esteras reported that -

1. Mr. Lucio has not remitted to the Supreme Court his collections from May 15, 1991 to July 23, 1992 in the total amount of P31,501.00. It was only upon the instructions of the Auditor, Ms. Pring, that Mr. Lucio remitted the amount of P31,433.00 on July 27, 1992 leaving a balance of

P68.00. By not remitting his collections Mr. Lucio violated the provisions of Commission on Audit (COA) and Department of Finance (DOF) Joint Circular 1-8 1.

2. Mr. Lucio was not recording on time in the cashbook his collections. At the start of the cash examination on July 23, 1992 the last date of collection entered in the cashbook was February 3, 1992. Transactions for the last 6 months were not yet recorded contrary to the provisions of the Manual on Cash Examination in which it is provided that "Cashbook entries should be written in ink at the time the transactions occur."

3. Mr. Lucio does not prepare and submit reports of collections duly supported with statement of accountability for accountable forms at the end of each month contrary to Section 64 of is P.D. 1445 pertinently quoted, "They shall render reports of their collections x x x to be submitted promptly to the auditor xxxx"^[4]

Auditor Esteras then recommended that proper administrative charges be filed against Clerk of Court Felipe L. OLucio.

On 7 October 1992 Executive Judge Natividad G. Dizon indorsed the letter of Mr. Esteras to the Chief Justice through the OCA for appropriate action.

On the basis of the reports of the Provincial Auditor and the Field Financial Operations Division of the OCA together with the latter's recommendation, the Court issued a resolution dated 26 November 1992 treating the audit reports as an administrative complaint against respondent and requiring the latter to file his comment thereon, at the same time placing him on preventive suspension for sixty (60) days without pay pending resolution of the complaint.^[5]

On 26 February 1993 respondent submitted his comment, which dealt solely on the report of Provincial Auditor Esteras, where respondent admitted his failure to record and remit to the Court his JDF collections from 15 May 1991 to 23 July 1992. He claimed that his failures and inaction were due to pressure of work; that in addition to his duties as Clerk of Court he also acted as court interpreter for more than twelve (12) years; that he was relieved of his additional work only in May 1992 when a new Interpreter was appointed; that while he did not make periodic, reports of his JDF collections regularly, such collections however were not diverted to his personal use; that when he was found short of P3 1,501.00 the auditor "actually found (the said amount) on hand consisting of cash thereby showing no difference"; that he remitted to the Court his JDF collections on 27 July 1992 together with the duplicates of the JDF official receipts he issued; and, that after computations made by the Cashier, he (respondent) paid the lesser amount of P31,433.00 under O.R. No. 2422194, hence, the balance should not be charged to him.^[6]

In the resolution of 11 March 1993 the Court noted the comment of respondent and referred the case to the OCA for evaluation, report and recommendation.^[7] On 14 June 1993 the OCA submitted its Memorandum finding respondent guilty of conduct prejudicial to the best interest of the service and recommended his dismissal with prejudice to his reemployment in the government or any government-owned or

controlled corporation.^[8]

The clerk of court of a court of justice is an essential officer in any judicial system. The office is the hub of activities both adjudicative and administrative.^[9] The nature of the work and office of the clerk of court mandates that he be an individual of competence, honesty and integrity.^[10] For in relation to the judge, the Clerk of Court occupies a position of confidence which should not be betrayed; and that with the prestige of the office goes the corresponding responsibility to safeguard the integrity of the court and its proceedings, to earn respect therefor, to maintain the authenticity and correctness of court records, and to uphold the confidence of the public in the administration of justice.^[11]

Being next in rank to the judge in a court of justice, the Clerk of Court is tasked, among other duties, with being the custodian of court funds and revenues. Thus Circular No. 5 dated 21 February 1985 principally imposes upon him the duty to receive the JDF collections, issue proper receipts therefor, maintain a separate cash book properly marked CASHBOOK FOR JUDICIARY DEVELOPMENT FUND, deposit such collections and render properly his monthly report of collections.^[12]

To ensure uniformity in the JDF collections, Circular No. 5 sets up a system and procedure of deposits, with a directive to comply strictly with the rules in order to safeguard these funds against possibility of loss or misuse x x x x

5. Systems and Procedures: x x x x

c. In the RTC, MeTC, MTCC, MTC and MCTC. - The daily collections for the Fund in these Courts shall be deposited everyday with the local or nearest PNB branch "For the account of the Judiciary Development Fund, Supreme Court, Manila " SAVINGS ACCOUNTNO. 068-503174-4"; or if depositing daily is not possible, deposits for the Fund shall be every second and third Friday and at the end of every month; provided, however, that whenever collections for the Fund reach P5 00.00, the same shall be deposited immediately even before the days above-indicated.

Where there is no PNB branch at the station of the Judge concerned, the collections shall be sent by postal money order payable to the Chief Accountant of the Supreme Court, at the latest before 3:00 P.M. of that particular week x x x x

7. Strict observance of these rules and regulations is hereby enjoined. The Clerks of Court, officers-in-charge shall exercise close supervision over their respective duly authorized representatives to ensure strict compliance herewith and shall be held administratively accountable for failure to do so. Failure to comply with any of these rules and regulations shall mean the withholding of the salaries and allowances of those concerned until compliance therewith is duly effected, pursuant to Section 122 of PD. No. 1445 dated July 11, 1978, without prejudice to such further disciplinary action the Court may take against them.