

SECOND DIVISION

[A.M. No. P-15-3335 [Formerly A.M. No. 15-04-98-RTC], June 28, 2017]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ATTY. JEROME B. BANTIYAN, CLERK OF COURT VI AND ERLINDA
G. CAMILO, FORMER OIC/COURT INTERPRETER, BOTH OF THE
REGIONAL TRIAL COURT, BRANCH 34, BANAUE, IFUGAO,
RESPONDENTS.**

DECISION

MENDOZA, J.:

This administrative case stemmed from a Financial Audit conducted by the Financial Monitoring Division (*FMD*), Court Management Office (*CMO*), Office of the Court Administrator (*OAS*) on the books of accounts of the Regional Trial Court, Branch 34, Banaue, Ifugao (*RTC*).

The audit was conducted due to the failure of Atty. Jerome B. Bantiyan (*Atty. Bantiyan*), Clerk of Court VI, RTC, to update his financial reports in violation of Circular No. 50-95. The audit covered the period of accountability of Erlinda G. Camilo (*Camilo*), former Officer-in-Charge-Clerk of Court from April 1, 2011 to February 9, 2012 and of Atty. Bantiyan from February 10, 2012 to November 8, 2013.

The Report^[1] of the audit team disclosed that both Camilo and Atty. Bantiyan incurred shortages in the various funds of the court. An examination of the Fiduciary Fund (*FF*) revealed that Atty. Bantiyan incurred a shortage amounting to P211,000.00, thus, depriving the Court of unearned interest in the amount of P9,215.84. On the Judiciary Development Fund (*JDF*), it was found that both Atty. Bantiyan and Camilo incurred shortages in the amounts of P7,140.25 and P580.00, respectively, due to over/under remittances. With respect to the Special Allowance for the Judiciary Fund (*SAJF*), Atty. Bantiyan and Camilo sustained deficiencies amounting to P11,437.40 and P760.00, respectively, due to under remittances. Lastly, on the Mediation Fund (*MF*), Atty. Bantiyan incurred a shortage of P1,976.00 as a result of over and under remittances of his collections, while Camilo's shortage amounting to P2,000.00 was due to unremitted collections for the months of June 2011 and February 2012 amounting to P500.00 and P1,500.00, respectively.

The shortages were immediately restituted by Atty. Bantiyan and Camilo as shown by the Land Bank Deposit Slips,^[2] dated November 12 and 13, 2013. The shortages incurred by Atty. Bantiyan and Camilo were summarized as follows:

| Fund | Shortages | Restitutions | | Balance |
|---------------------|-----------|--------------|--------|---------|
| | | Date | Amount | |
| Respondent Bantiyan | | | | |
| | | | | |

| | | | | |
|--------------------------|-------------------|----------|-------------------|-----------------------------|
| FF | 211,000.00 | 11/12/13 | 211,000.00 | 0.00 |
| JDF | 7,140.25 | 11/12/13 | 8,202.05 | (1,061.80) |
| SAJF | 11,437.40 | 11/12/13 | 5,415.97 | 0.00 |
| | | 11/13/13 | 6,021.43 | |
| MF | 1,976.00 | 11/12/13 | 8,530.00 | (6,554.00) |
| VCF | 125.00 | 11/12/13 | 70.00 | 0.00 |
| | | 11/13/13 | 55.00 | |
| LRF ^[3] | 2,280.00 | 11/12/13 | 2,350.00 | (70.00) |
| Total | 233,958.65 | | 241,644.45 | (7,685.80) |
| Respondent Camilo | | | | |
| JDF | 580.00 | 11/13/13 | 580.00 | 0.00 |
| SAJF | 760.00 | 11/13/13 | 760.00 | 0.00 |
| MF | 2,000.00 | 11/13/13 | 2,000.00 | 0.00 |
| LRF | 1,167.10 | 11.13.13 | 1,168.10 | (0.90) |
| Total | 4,507.10 | | 4,508.10 | (0.90)^[4] |

The audit team claimed that Atty. Bantiyan may have misappropriated his judiciary collections for his personal use because when the audit team required him to produce the total shortage of P233,958.65, he presented only the amount of P650.00.

The audit likewise disclosed that Camilo and Atty. Bantiyan had been remiss in the submission of the Monthly Reports and they had not been updating entries in the official cashbooks of each fund.

Further, the audit team discovered that the RTC had no collection for the Sheriff's Trust Fund (*STF*) as certified by Atty. Bantiyan, a violation of Section 10 of the Amended Administrative Circular No. 35-2004.

Thus, in a Resolution,^[5] dated July 15, 2015, the Court, upon the recommendation of the OCA, ordered as follows:

1. **DOCKET** this report as a regular administrative matter against Atty. Jerome B. Bantiyan and Ms. Erlinda G. Camilo, Clerk of Court VI and former OIC/Court Interpreter, both of the RTC, Banaue, Ifugao for violation of OCA Circular No. 50-95, Circular No. 32-93, Administrative Circular No. 3-2000, OCA Circular No. 113-2004, and Amended Administrative Circular No. 35-2004;

2. **DIRECT** Atty. Jerome B. Bantiyan, Clerk of Court VI, RTC, Banaue, Ifugao to EXPLAIN the following findings:

a. Failure to present during the cash examination on n November 2013 the undeposited collections totaling P233,958.65;

b. Non-remittances and/or delayed remittances of the following judiciary collections:

| Fund | Shortages |
|-------------|------------------|
| FF | 211,000.00 |
| JDF | 7,140.25 |

| | |
|--------------|-------------------|
| SAJF | 11,437.40 |
| MF | 1,976.00 |
| VCF | 125.00 |
| LRF | 2,280.00 |
| Total | 233,958.65 |

c. Non-Submission of Monthly Reports and failure to update the Official Cash Book which is a clear violation of Circular No. 32-93 and OCA Circular No. 113-2004;

| Fund | Deficient Reports |
|----------------------------|----------------------------|
| Fiduciary Fund | No reports |
| Judiciary Development Fund | December 2012-October 2013 |
| Mediation Fund | No reports |

d. Failure to collect the required One Thousand Pesos (P1,000.00) Sheriffs Trust Fund for every civil case filed in court pursuant to Section 10 of the Amended Administrative Circular No. 35-2004.

3. **DIRECT** Ms. Erlinda G. Camilo, former OIC/Court Interpreter, RTC, Banaue, Ifugao, to COMMENT on the following audit findings:

a. Non-remittances and/or delayed remittances of the following judiciary collections:

| Fund | Shortages |
|--------------|------------------|
| JDF | 580.00 |
| SAJF | 760.00 |
| MF | 2,000.00 |
| LRF | 1,167.10 |
| Total | 4,507.10 |

b. Non-submission of Monthly Reports and failure to update the Official Cash Book which is a clear violation of Circular No. 32-93 and OCA Circular No. 113-2004.

| Fund | Deficient Reports |
|----------------|--------------------------|
| Fiduciary Fund | No reports |
| Mediation Fund | No reports |

4. **DIRECT** Mr. Jonathan D. Nasdoman, Clerk II and designated financial accountable officer, RTC, Banaue, Ifugao to:

a. **COLLECT** the mandatory One Thousand Pesos (P1,000.00) Sheriffs Trust Fund for every civil case filed in court pursuant to Section 10 of the Amended Administrative Circular No. 3S-2004 and STRICTLY ADHERE with the procedural guidelines in the handling of the Sheriffs Trust Fund;

b. OPEN a separate account for the Sheriff's Trust Fund in line with the OCA Circular No. 99-2014 dated 31 July 2014, Re: Reduction of Initial/Opening Deposit and Maintaining Balance of Regular Savings Account from P10,000.00 to P1,000.00 for the Fiduciary and Sheriff's

Trust Fund Accounts;

c. UPDATE regularly the recording of financial transactions for each fund in the official cashbooks and CERTIFY at the end of every month the correctness of entries therein; and

d. STERNLY ADHERE and FOLLOW the issuances of the Court on the proper handling and reporting of judiciary funds, particularly the prescribed period within which to remit court collections as well as the proper collection and allocation of [filing] fees; and

5 **DIRECT** Hon. Ester P. Flor to MONITOR the financial transactions of the RTC, Banaue, Ifugao, to ensure strict observance of the issuances of the Court in order to avoid any irregularity in the collections, deposits and withdrawals/disbursements of court funds.^[6]

Explanation of Camilo

In a Letter,^[7] dated January 15, 2016, Camilo explained that her shortages in the JDF, SAJF, MF, and Legal Research Fund (*LRF*) were due to oversight and miscalculation. She explained that she computed the collections based on the official receipts issued for the current month and collected from the issuer without reference to the previous reports; that the funds were not re-calculated because she presumed that the amounts she received were exact for deposits; and, that the LRF receipted collections were not included in the computation because she thought that the collections were less than P100.00.

On her failure to update the cashbook, Camilo averred that the cashbooks were not monitored because she confidently relied on Jonathan Nasdoman (*Nasdoman*) who was in charge of the entries during the time of Atty. Dennis Dimalnat. She stated that the entries in the cashbooks were completed just after the conclusion of the audit.

On the failure to submit the monthly reports, Camilo alleged that she had submitted the reports by mail to the OCA and even showed to the audit team the office files which they used as basis for comparison with the official receipts issued monthly. She attached a machine copy of the registry receipts to prove that the reports were actually mailed to the proper office.

Explanation of Atty. Bantiyan

For his part, Atty. Bantiyan narrated that when he assumed office in January 2012, the staff was uncooperative, unruly and resistant, making it hard for him to attend with dispatch to the clerical aspect of a financial accountable officer. Further, Nasdoman, who was in-charge of the financial matters, begged to be relieved of the financial responsibility because of health reasons. Thus, Atty. Bantiyan had no choice but to assume the bulk of the work as no one in the staff was willing to help. It was then that he discovered that Nasdomari was not preparing the financial reports and updating the cashbooks. According to him, he immediately instructed Camilo and Nasdoman to accomplish the reports and update the cashbooks, but they were not able to comply soon enough so he decided to update the cashbooks and draft the reports himself.

On his failure to present the undeposited collections totaling P233,958.65, Atty. Bantiyan denied that he misappropriated the said amount. He explained that during the audit, he readily admitted to the audit team leader that the collection was in his possession. He also informed the audit team leader that it was not his practice to keep a large amount of money in the office because the safety vault therein was being utilized to store the object evidence submitted in court and it was usually full. When the new cabinet with safety vault was delivered in 2012, the key attached on its top was missing. Atty. Bantiyan further explained that he was not able to get the money from Lagawe and present it to the audit team leader because he could not leave the office as he was busy attending to the audit team. He averred that he no longer brought the money to the court the following day as he opted to deposit the same with the Land Bank of the Philippines (*LBP*) and he just presented the deposit slips to the audit team.

Atty. Bantiyan asserted that daily deposit with the bank was not possible because the court was understaffed; that the LBP-Lagawe branch was an hour away; and that it usually took thirty (30) minutes to one (1) hour of waiting before a public utility vehicle would be available. He added that the Lagawe-Banaue road was not safe due to the incidents of highway robberies, and, in fact, the municipal treasurer of Banaue was robbed of P800,00.00 while on his way to the court to pay the salaries of the LGU staff. Thus, he devised a way to keep the money safe until it was deposited in the LBP.

On the failure to collect the P1,000.00 STF, Atty. Bantiyan averred that he was made aware of it only during the Orientation Seminar for Clerks of Court; and that when he assumed office in January 2012, there was no record of such STF being collected because the court was created only in 1995. He said that when he found out about the STF, he talked to the Presiding Judge, but he was told that the court did not have the required amount of P10,000.00 to open a STF account and that he could not use the other funds of the court for that purpose. Nonetheless, when the initial deposit to open a STF account was reduced to P1,000.00, the court immediately opened a STF account and transferred the STF collections from the FF account.

Atty. Bantiyan explained that he encountered difficulties in preparing the financial reports because he was new to the court and he had been discharging most of the work. He further averred that the situation was aggravated by the lack of cooperation from the staff. Atty. Bantiyan offered his apology and promised to be more committed to his work.^[8]

The OCA Recommendation

In a Memorandum,^[9] dated October 24, 2016, the OCA found Camilo guilty of simple neglect of duty and recommended that she be fined in the amount of P10,000.00. With respect to Atty. Bantiyan, the OCA found him guilty of gross neglect of duty but recommended that the penalty be reduced to one (1) month suspension, considering that he immediately restituted the shortages and that it was his first offense.

The Court's Ruling